Calendar No. 906

100TH CONGRESS
2d Session

SENATE

REPORT
100-484

ACT FOR BETTER CHILD CARE SERVICES OF 1988

AUGUST 1 (legislative day, AUGUST 10), 1988.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Human Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1885]

The Committee on Labor and Human Resources to which was referred the bill (S. 1885) to provide for a Federal program for the improvement of child care, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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19-010

S543-18

I. THE BILL AS REPORTED

[S. 1885, 100th Cong., 2d Sess.]

A BILL To provide for a Federal program for the improvement of child care, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the "Act for Better Child Care Services of 1987".

[(b) TABLE OF CONTENTS.—

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[SEC. 2. FINDINGS AND PURPOSE.

[(a) FINDINGS.—Congress finds that—

[(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

[(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity;

[(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

[(4) the years from birth to age 6 are critical years in the development of a young child;

[(5) high quality early childhood development programs provided during the period referred to in paragraph (4) are cost effective because such programs can reduce the chances of juvenile delinquency, adolescent pregnancy and improve the likelihood that children will finish high school and become employed;

[(6) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

[(7) the rapid growth of participation in the laborforce by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

[(8) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

[(9) many working parents are unable to afford adequate child care services, and do not receive adequate financial assistance for such services from employers or public sources;

[(10) a large number of parents are not able to work or to seek the training or education they need to become self sufficient because of the lack of affordable child care;

[(11) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

[(12) the exceptionally low salaries paid to child care workers contributes to an inordinately high rate of staff turnover in the child care field, makes it difficult to retain qualified staff, and adversely affects the quality of child care;

[(13) several factors result in the shortage of quality child care options for children and parents including—

[(A) the inability of parents to pay for child care;

[(B) the lack of up-to-date information on child care services;

[(C) the lack of training opportunities for staff in child care programs;

[(D) the high rate of staff turnover in child care facilities; and

[(E) the wide differences among the States in child care licensing and enforcement policies; and

[(14) improved coordination of child care services will help to promote the most efficient use of child care resources.

[(b) PURPOSE.—It is the purpose of this Act to—

[(1) provide assistance to States to improve the quality of, and coordination among, child care programs, and to provide additional resources for child care services;

[(2) promote the availability and diversity of quality child care services for all children and families who need such services;

[(3) provide assistance to families whose financial resources are not sufficient enough to enable such families to pay the full costs of necessary child care services;

[(4) strengthen the functioning of the family unit by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

[(5) increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care to children;

[(6) strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience;

[(7) lessen the chances that children will be left to fend for themselves for significant parts of the day; and

[(8) improve the productivity of parents in the laborforce by lessening the stresses related to the absence of adequate child care.

[SEC. 3. DEFINITIONS.

[As used in this Act:

[(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care as established in section 15(a).

[(2) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate issued by the State that parents may use only as payment for child care services that meet the Federal, State, and local standards set forth in this Act, and that provide reimbursement to child care providers at the market rate of care.

[(3) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the same meaning given that term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

[(4) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

[(5) ELIGIBLE CHILD.—The term "eligible child" means—

[(A) a child age 15 or under;

[(B) whose family income does not exceed 115 percent of the State median income for a family of the same size; and

[(C) who resides with a parent or parents who are working, seeking employment, or enrolled in a job training or other educational program; or

[(D) who resides with a parent or parents not described in subparagraph (C) but who is receiving, or is in need of receiving, protective services.

[(6) ELIGIBLE PROVIDER.—The term "eligible provider" means a child care center, family day care provider, group care provider, or other facility which meets the Federal, State, and local standards set forth in this Act.

[(7) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

[(8) FULL WORKING DAY.—The term "full working day" means a minimum of 10 hours of child care per day.

[(9) HANDICAPPING CONDITION.—The term "handicapping condition" includes the same conditions set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)).

[(10) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the same meaning given that term under section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)).

[(11) LEAD AGENCY.—The term "lead agency" means the agency designated by the State under section 6.

[(12) Local educational agency.—The term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

[(13) Parent.—The term "parent" includes a legal guardian or other person standing in loco parentis.

[(14) School age child care programs.—The term "school age child care programs" means programs that—

[“(A) operate during such times of the school day when regular instructional services are not in session;

[“(B) are not intended as an extension of or replacement for the regular academic program but are intended to be environments which enhance the social, emotional, and recreational development of children;

[“(C) include opportunities to participate in study-skill sessions, counseling, and guidance in addition to recreational activities.

[(15) Secondary school.—The term "secondary school" means a day or residential school which provides secondary education as determined under State law.

[(16) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

[(17) School facilities.—The term "school facilities" means classrooms and related facilities used for the provision of education.

[(18) Sliding fee scale.—The term "sliding fee scale" means a system of co-payments between the State and a family based on income and size of the family with the lowest income families having to pay no co-payments.

[(19) State.—The term "State" includes the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

[SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

[To carry out the provisions of this Act, there are authorized to be appropriated $2,500,000,000 for the fiscal year 1988, and such sums as may be necessary in each of the fiscal years 1989 through 1992.

[SEC. 5. ALLOTMENTS.

[(a) Reservations.—

[(1) Territories and Possessions.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under section 4 in each fiscal year for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

[(2) Indians.—The Secretary shall reserve an amount not to exceed 3 percent of the amount appropriated pursuant to section 4 in each fiscal year, to carry out subsection (c) regarding children on Indian reservations.

[(3) Section 10 grants.—The Secretary shall reserve an amount not to exceed 5 percent of the amount appropriated pursuant to section 4 in each fiscal year, for grants under section 10(c)(2).

[(b) STATE ALLOTMENT.—

[(1) GENERAL RULE.—From the remainder of the sums appropriated under section 4 for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

[(A) an amount bearing the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

[(B) an amount bearing the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

[(2) YOUNG CHILD FACTOR.—The term "young child factor" means the relative number of children who have not attained the age of 5 in the State as compared to the total number of children who have not attained the age of 5 in all States.

[(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the relative number of children in the State receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) as compared to the total number of children receiving free or reduced price lunches under such program in all States.

[(4) ALLOTMENT PERCENTAGE.—

[(A) IN GENERAL.—The allotment percentage of a State is determined by dividing—

[(i) the per capita income for the United States; by

[(ii) the per capita income for each State.

[(B) LIMITATIONS.—If the sum as determined under subparagraph (A)—

[(i) exceeds 1.2, the allotment percentage of that State shall be set at 1.2; and

[(ii) is less that 0.8, the allotment percentage of the State shall be set at 0.8.

[(C) PER CAPITA INCOME.—The per capita income of the States and of the United States shall be the average of the per capita incomes of the States and of the United States for the 3 most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the 2 fiscal years in the period beginning on the October 1 next succeeding such promulgation.

[(5) DEFINITION.—For the purposes of this subsection, the term "States" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

[(c) PAYMENTS FOR INDIANS ON RESERVATIONS.—From the amounts reserved under subsection (a)(2), the Secretary shall make payments, on such terms as the Secretary determines will best carry out the purposes of this Act, to the Secretary of the Interior to enable the Secretary of the Interior to make payments for child care services for Indian children on Indian reservations.

[(d) DATA AND INFORMATION.—Except as provided in subsection (b)(4)(B), the Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

[(e) REALLOTMENTS.—

[(1) IN GENERAL.—Any portion of the allotment to a State under subsection (b) that the Secretary determines is not required to carry out a State plan approved under section 7, in the period that the allotment is made available, shall be reallocated by the Secretary to other States in proportion to the original allotment to such States.

[(2) LIMITATION.—The amount that another State is entitled to under paragraph (1) shall be reduced to the extent that such amount exceeds the sum that the Secretary estimates will be used in that other State to carry out a State plan approved under section 7, and the amount of such reduction shall be similarly reallotted among States in which the proportionate amount is not reduced.

[(3) AMOUNTS REALLOTTED.—Any amount reallotted to a State under this subsection shall be deemed to be part of the original State allotment under subsection (b) for that year.

[SEC. 6. LEAD AGENCY.

[(a) DESIGNATION.—The Governor of a State desiring to participate in the program authorized by this Act shall specify in the application to the Secretary under section 7(a) an appropriate State agency that meets the requirements of subsection (b), to act as the lead State agency.

[(b) REQUIREMENTS.—

[(1) ADMINISTRATION OF FUNDS.—The designated lead agency must have the capacity to administer the funds provided to support programs and services authorized under this Act and to oversee the plan submitted under section 7.

[(2) COORDINATION.—The designated lead agency must have the capacity to coordinate support programs and services with those of other State and local agencies involved in providing such services to children.

[(3) ESTABLISHMENT OF POLICIES.—The designated lead agency must have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this Act.

[(c) DUTIES.—The lead agency designated under subsection (a) shall—

[(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services assisted under this Act, and under other provisions of law, in meeting such needs;

[(2) develop a plan designed to meet the need for child care services within the State for eligible children, including infants, preschool children and school-age children, with special attention given to meeting the needs of services for low-income children, migrant children, children with handicapping conditions, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school and children with limited English-language proficiency;

[(3) develop, in consultation with the State interagency advisory committee established pursuant to section 11, the State plan submitted to the Secretary under section 7;

[(4) make such periodic reports to the Secretary as the Secretary may by regulation require;

[(5) hold hearings, in cooperation with the State interagency advisory committee, annually in each region of the State in order to provide the public an opportunity to comment on the provision of child care within the State under the proposed State plan; and

[(6) coordinate the provision of services under this Act with other child care programs and services assisted under any State, local, or other Federal law, and with other appropriate services, including social, health, mental health, and nutrition services, available to eligible children under other Federal and State programs.

[SEC. 7. STATE APPLICATION AND PLAN.

[(a) Application.—To qualify for assistance under this Act, a State shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

[(b) Plan.—The application of a State under subsection (a) shall include a State plan which covers a 5 year period and meets the requirements of subsection (c) of this section.

[(c) Requirements of a Plan.—

[(1) Lead agency.—The plan shall identify the lead agency designated, which meets the requirements of section 6.

[(2) Advisory bodies.—The plan shall demonstrate that the State will establish the State advisory bodies described in sections 11 and 12.

[(3) Policies and procedures.—The plan shall set forth policies and procedures designed to ensure that—

[(A) all providers of child care services assisted under this Act shall be licensed or meet specified regulatory standards set forth by the State, and that all such providers shall be subject to the most comprehensive licensing requirements or regulatory standards made applicable by the State to other providers delivering child care services under the same or similar types of child care arrangements, but nothing in this subparagraph shall be construed to prohibit a State from imposing more stringent standards or requirements on providers who also receive State funds to provide child care services under contractual or other agreements with the State;

[(B) procedures will be established for compliance with minimum Federal standards developed pursuant to section 18, in conjunction with State licensing or regulating of child care providers;

[(C) the State will not reduce the categories of child care licensed or regulated by the State on the date of enactment of this Act, nor reduce the level of standards applicable to child care provided within that State and specifically enumerated in sections 14(a) and 18(d), even if such standards exceed the minimums promulgated by the Secretary and required under this Act;

[(D) funds provided under this Act will be used only to supplement or increase the level of Federal, State, and local funds expended for the support of child care services and related programs within the State;

[(E) for each fiscal year, the State will use an amount not to exceed 10 percent of the amount of funds allotted to the State for such fiscal year to administer the State plan (except that American Samoa, Guam, the Virgin Islands, the Trust Territories of the Pacific Islands and the Commonwealth of the Northern Mariana Islands will use an amount not to exceed 10 percent of the funds for administrative costs);

[(F) the State will make payments to programs receiving funds under this Act in a timely fashion to ensure the continuity of services to eligible children and families;

[(G) the State will, in using non-Federal funds, establish a low interest loan program that will be available to nonprofit child care centers and family day care homes to help such centers and homes meet the cost of establishing child care programs and making renovations and improvements in existing facilities;

[(H) the State will establish and carry out a program to make grants to nonprofit child care centers and family day care homes to help such centers and homes meet the cost of establishing child care programs and making renovations and improvements in existing facilities; and

[(I) grants and loans made under this section shall be available to all child care programs to assist such programs in meeting Federal, State, and local child care standards, with priority being given to programs serving low income children.

[(4) DEFINITION.—As used in paragraph (3)(A), the term "same or similar child care arrangements" means that all child care centers and group homes referred to in such paragraph shall be subject to the same licensing or regulatory standards, and all family daycare providers referred to in such paragraph shall be subject to the same licensing or regulatory standards.

[(5) USE OF FUNDS.—The plan shall provide that—

[(A) the State will use at least 75 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this Act to eligible children, including infants, toddlers, preschool and school-age children, within the State on a sliding fee scale basis, using funding mechanisms provided for in section 8(a); and

[(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to allow for the extension of part-day programs as described in section 8(b).

[(6) CHILD CARE ACTIVITIES.—The plan shall provide that the State will use not more than 15 percent of the amount allotted in any fiscal year for activities to improve the quality and availability of child care for all families, including—

[(A) the development and funding of State and local resource and referral systems under section 13, to provide information concerning the availability, types, costs, and locations of child care services within the State;

[(B) the improvement of the quality of child care services in the State by—

[(i) improving the monitoring of compliance with, and enforcement of, the organizations, preservice and continuing in-service training (in accordance with the requirements of section 14, and including the scholarship provisions of such section) to child care staff and personnel in centers and other settings;

[(C) ensuring that sufficient funds are available to enable family day care providers and centers, that meet the requirements of this Act and applicable State and local law, to comply with the minimum child care standards for safety and health established under section 18(d); and

[(D) ensuring adequate salaries, and compensation for full and part-time staff in child care programs serving eligible children under this Act.

[(7) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed to a variety of child care providers in each community, including child care centers and family day care providers.

[(8) REIMBURSEMENTS.—The plan shall provide that child care services assisted by this Act shall be reimbursed at not less than the market rate for such care in the geographic area within the State in which child care is being provided, and reimbursement will reflect the additional cost to the provider of special services or the provider serving special populations of children, with a higher rate of reimbursement being provided for—

[(A) care of children from birth to age 2;

[(B) programs providing comprehensive child care and family support services to adolescent parents; and

[(C) the care of handicapped children.

[(9) PRIORITY.—The plan shall provide that priority shall be given, in distributing funds within the State, to child care programs that—

[(A) to the maximum extent feasible, have a reasonable mix of children from different socioeconomic backgrounds, including children served under this Act;

[(B) provide opportunities for parent involvement; and

[(C) offer family support services.

[(10) SLIDING FEE SCHEDULES.—The plan shall provide for the establishment of sliding fee schedules requiring copayments based on the services provided and the family income (adjusted for family size) for children receiving services assisted under this Act.

[(11) DESCRIPTION OF PROCESS.—The plan shall describe the process the State will use to—

[(A) ensure that resource and referral agencies will be made available to families in all regions of the State;

[(B) ensure that programs assisted under this Act—

[(i) give priority for services to children with the lowest family incomes, taking into account family size;

[(ii) provide services for an adequate number of hours and days to serve the needs of working parents and other parents of eligible children;

[(iii) comply with the minimum child care standards established pursuant to section 18 of this Act, except that State educational agencies providing child care services assisted by this Act may develop and enforce their own child care standards that meet or exceed the standards established under section 18, and the enforcement procedures pursuant to paragraph (12), and that meet or exceed applicable State licensing or regulatory requirements in areas not covered by the standards established under section 18; and

[(iv) comply with the provisions of the State plan and other requirements of this Act, including the various prohibitions on expenditures of funds, and the nondiscrimination provisions of section 20;

[(C) ensure that child care is available for parents who work nontraditional hours such as evenings and weekends;

[(D) ensure that child care assisted under this Act is available to children with handicapping conditions;

[(E) ensure that regulations will be issued governing the provision of school-age child care if the State does not already have such regulations;

[(F) ensure that funds are made available so that training opportunities will be provided equitably to all child care providers within the State;

[(G) encourage child care programs in the State to develop personnel policies that include compensated time for staff undergoing training required under this Act; and

[(H) encourage adequate salaries, and other compensation for full and part-time staff in child care programs serving children assisted by this Act, and to the extent practicable, such staff in other major Federal and State child care programs, and for other child care personnel, at the option of the State.

[(12) PARENTAL INVOLVEMENT.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in that State.

[(13) LICENSING ENFORCEMENT.—The plan shall provide that the State, within 5 years of the date of enactment of this Act, shall have in effect licensing enforcement policies and practices that will be applicable to all licensed or regulated child care services in the State, including—

[(A) a requirement that licensing staff and personnel receive training in child development, health and safety, program management, and relevant law enforcement;

[(B) programs making available the training required by paragraph (A);

[(C) a requirement and personnel policies to ensure that individuals hired as licensing inspectors be qualified and have inspection responsibility exclusively for child care facilities;

[(D) a requirement that—

[(i) licensing staff make no less than one unannounced inspection of each child care center in the State annually;

[(ii) licensing staff annually make unannounced inspections of no less than 20 percent of the regulated family day care homes in the State;

[(iii) inspections be conducted during the normal hours of operation of State family day care homes; and

[(iv) inspections of State family day care homes be confined to areas of the family day care providers' home used to provide child care services;

[(E) a requirement that the ratio of licensing staff to child care centers and family day care providers in the State be maintained at a level sufficient to enable the State to conduct inspections of child care facilities and providers on a timely basis and otherwise to comply with the enforcement requirements of this section;

[(F) a requirement that licensed or regulated child care programs within the State—

[(i) have written policies and program goals that are made available to parents; and

[(ii) provide parents with unlimited access to child care centers or providers caring for their children during normal hours of operation or when children of such parents are in the care of such centers or providers;

[(G) a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care program that has been adversely affected or aggrieved by a decision of the lead agency or any program assisted under this Act, to be heard;

[(H) provisions that prohibit a child care facility from taking any action against an employee of such facility that would adversely affect the employment or terms or conditions of employment of the employee because such employee reports licensing deficiencies within the program;

[(I) a consumer education program designed to inform parents and the general public about licensing requirements and complaint procedures, including—

[(i) a provision for unlimited parental access to child care programs or providers caring for children during the hours the program is in operation;

[(ii) a requirement that child care centers and family day care homes post, on the premises, the telephone number of the appropriate regulatory agency that parents may call regarding licensing complaints; and

[(iii) a requirement that the State maintain a record of parental complaints and make such information available to members of the public on request.

[(14) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

[(A) by race, sex, and ethnic origin, how the child care needs of the State are being fulfilled, including information on—

[(i) the number of children being assisted with funds provided under this Act, and under other State and Federal child care and preschool programs;

[(ii) the number of child care positions in the State;

[(iii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

[(iv) the regional cost of child care; and

[(v) such other information as the Secretary considers necessary to establish how funds provided under this Act are being used;

[(B) the extent to which the availability of child care has been increased, including the number of licensed or regulated child care slots; and

[(C) how the purpose of this Act and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care.

[SEC. 8. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

[(a) FUNDING OF CHILD CARE SERVICES.—

[(1) IN GENERAL.—The child care services referred to in section 7(c)(4) that are to be provided out of the allotment to a State, shall be provided—

[(A) by contracts with or grants directly to eligible child care providers (including community-based organizations), or public or private nonprofit agencies (including elementary and secondary schools and institutions of higher education), to enable such providers or agencies to operate programs directly or to subcontract with other public or private nonprofit agencies including eligible child care providers, community-based organizations, elementary and secondary schools and institutions of higher education for the operation of such programs; or

[(B) by distributing child care certificates to parents of eligible children under such terms as the Secretary may prescribe to enable the recipients of such certificates to purchase child care services that meet the requirements of this Act.

[(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized under paragraph (1)(B) shall be issued by a State only if a resource and referral program recognized by the State pursuant to section 13 is available to help parents locate child care services that meet the requirements of this Act.

[(b) PART-DAY PROGRAMS.—

[(1) IN GENERAL.—A minimum of 10 percent of the funds available for activities under section 7(c)(4)(A) shall be reserved to enable the part-day programs described in paragraph (2) to extend existing hours of operation and provide full day child care services throughout the year, that will meet the needs of working parents and other parents of children eligible for services assisted by this Act.

[(2) ELIGIBLE PROGRAMS.—The part-day programs referred to in paragraph (1) include—

[(A) schools and nonprofit child care programs including community-based organizations receiving State or local funds designated for preschool;

[(B) programs established under the Headstart Act (42 U.S.C. 9831 et seq.);

[(C) preschool programs assisted under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

[(D) preschool programs for handicapped children.

AVAILABILITY OF PLANNING GRANTS

[SEC. 9. PLANNING GRANTS.

[(a) IN GENERAL.—A State desiring to participate in the programs authorized by this Act that cannot fully satisfy the requirements of the State plan under section 7 without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

[(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

[(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 7; and

[(2) the State will apply, within a 3 month period after receiving a grant, for the remainder of the allotment that the State is entitled to for that fiscal year.

[(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify for in that fiscal year if the State fully satisfied the requirements of section 7 of this Act.

[(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be counted as an expenditure for administrative costs by the State for the purposes of determining the compliance by the State with the limitation on administrative costs imposed under section 7(c)(3)(E) of this Act.

[SEC. 10. STATE LICENSING AND ENFORCEMENT EFFORTS.

[(a) COMPLIANCE WITH CHILD CARE STANDARDS.—During the 5 year period after the establishment of final minimum child care standards pursuant to section 18, a State receiving funds under this Act that is not in compliance with such standards shall use a portion of the funds available to the State under section 7(c)(5) to enable the State to comply with such child care standards. Funds under this section shall be used to—

[(1) improve the quality of child care within the State; and

[(2) carry out plans to improve the licensing, regulating, monitoring, and enforcement of the child care programs of the State, including the hiring and training of licensing and regulatory staff.

[(b) CONTINUING ELIGIBILITY.—No State shall be eligible for assistance under this Act after the fifth year after issuance by the Secretary of final minimum child care standards, unless a State can demonstrate to the satisfaction of the Secretary that all licensed and regulated child care services within the State—

[(A) satisfy the minimum child care standards issued by the Secretary under section 18; and

[(B) are subject to the enforcement provisions specified in the State plan.

[(c) REDUCED STATE MATCH.—

[(1) IN GENERAL.—Notwithstanding the provisions of section 17(a), if a State can demonstrate that the State satisfies the requirements of subsection (b), the amount of the non-Federal matching funds required to be provided by the State shall be reduced to 15 percent, beginning with the first full fiscal year in which such requirements were met.

[(2) GRANT ELIGIBILITY.—A State eligible for a reduced State match under paragraph (1) shall be entitled to receive a grant in an amount equal to the amount of the reduction in the match.

[SEC. 11. STATE INTERAGENCY ADVISORY COMMITTEES ON CHILD CARE.

[(a) INTERAGENCY ADVISORY COMMITTEE ON CHILD CARE.—The Governor of a State participating in the programs authorized by this Act shall establish a State interagency advisory committee on child care to assist the lead agency in carrying out the responsibilities of the agency under this Act.

[(b) COMPOSITION.—The State interagency advisory committee shall be composed of not less than 15 nor more than 30 members who shall include—

[(1) at least 1 representative of the lead agency designated under section 6;

[(2) 1 representative of each of the State departments of—

[(A) human resources or social services;

[(B) education;

[(C) economic development; and

[(D) representatives of other State agencies having responsibility for the regulation, funding, or provision of child care services within the State;

[(3) at least 1 representative of child care providers;

[(4) at least 1 representative of early childhood development experts;

[(5) at least 1 representative of school districts and teachers involved in the provision of child care and preschool programs;

[(6) at least 1 representative of resource and referral programs;

[(7) 1 pediatric or other health professional;

[(8) 1 representative of a citizen group concerned with child care;

[(9) at least 1 representative of an organization representing child care employees;

[(10) at least 1 representative of the Head Start Agency; and

[(11) parents of children receiving, or in need of, child care, including at least two parents whose children are receiving or are in need of subsidized child care.

[(c) Functions.—The State interagency advisory committee shall—

[(1) advise the lead agency on child care policies;

[(2) provide the lead agency with information necessary to coordinate the provision of child care services within the State;

[(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 6;

[(4) review and evaluate child care programs and services assisted under this Act and under other provisions of State law, in meeting the objectives of the State plan and the purpose of this Act;

[(5) make recommendations on the development of State child care standards and policies;

[(6) participate in the regional public hearings required under section 6(c)(5); and

[(7) perform other functions to improve the quantity and quality of child care in the State.

[(d) Meetings.—

[(1) In general.—Within 30 days after the beginning of each fiscal year, the State interagency advisory committee shall meet and establish the time, place, and manner of future meetings of the committee.

[(2) Minimum number of meetings.—The State interagency advisory committee shall have at least 2 public meetings each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

[(e) Services and Personnel.—

[(1) Authority.—The lead agency is authorized to obtain the services of such personnel and to contract for such other services as may be necessary to enable the State interagency advisory committee to carry out its functions under this Act.

[(2) Reimbursement.—Members of the State advisory committee shall be reimbursed, in accordance with standards prescribed by the Secretary, for necessary expenses incurred by such members in carrying out the duties assigned them as members of the State committee.

[(3) Sufficiency of funds.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to each State committee to carry out the requirements of this section.

[SEC. 12. STATE ADVISORY COMMITTEE ON LICENSING.

[(a) In General.—

[(1) ESTABLISHMENT.—The Governor of each State participating in the program authorized under this Act shall establish a State committee on licensing.

[(2) TIME FOR ESTABLISHMENT.—The first State committee on licensing shall be established and in existence at the time the State submits an application for assistance under this Act.

[(b) COMPOSITION.—

[(1) MEMBERS.—The State committee on licensing shall be composed of not more than 15 persons including at least 1 representative of—

[(A) for profit and nonprofit child care programs;

[(B) early childhood development academicians;

[(C) pediatricians;

[(D) fire marshals and building inspectors;

[(E) State and local health departments;

[(F) different types of child care programs, including caregivers and directors of both center-based and family day care home programs;

[(G) resource and referral programs; and

[(H) parents of children who are currently enrolled in, or have recently been enrolled in child care programs (including both center-based and family day care home programs).

[(2) DUAL SERVICE OF MEMBERS.—Members of the State committee on licensing may, at the option of the State, be individuals who are also serving on the State interagency advisory committee established under section 11.

[(c) FUNCTIONS.—

[(1) REVIEW OF LICENSING AUTHORITY.—The State committee on licensing shall review the licensing requirements, the law, and the policies of the licensing agency or agencies regulating child care services and programs within the State for eligible children, including infants, toddlers, preschool, and schoolage children, unless the State has conducted such a study within the 4 years immediately preceding the establishment of the committee under subsection (a).

[(2) REPORT.—Not later than 12 months after designation of the State committee on licensing, the committee shall prepare and submit to the Governor a report.

[(3) CONTENTS OF REPORT.—A report prepared under paragraph (2) shall contain provisions that—

[(A) separately analyzes information on center-based programs and information on family day care programs;

[(B) outlines the findings and recommendations of the committee that result from the committee review under paragraph (1), including a description of the current status of child care licensing, regulating, and monitoring within the State;

[(C) outlines the deficiencies in the existing licensing, regulating and monitoring programs, including an assessment of the adequacy of staff to carry out the State program effectively, and recommendations to correct such deficiencies or to improve such licensing, regulating, and monitoring programs; and

[(D) comments on the minimum child care standards promulgated by the Secretary pursuant to section 18.

[(d) Receipt of Report by Governor.—Within 60 days after receiving the report from the State committee on licensing the Governor shall transmit such report to the Secretary with—

[(1) the comments of the Governor; and

[(2) the State plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring programs as provided for under this section.

[(e) Services and Personnel.—

[(1) Authority.—The lead agency is authorized to obtain the services of such personnel and to contract for such other services as may be necessary to enable the State committee on licensing to carry out its functions under this Act.

[(2) Reimbursement.—Members of the State committee on licensing shall be reimbursed, in accordance with standards prescribed by the Secretary, for necessary expenses incurred by such members in carrying out the duties assigned them as members of the State committee.

[(3) Sufficiency of funds.—The Secretary shall ensure that sufficient funds are made available to a State, from funds available for the administration of the State plan, to each State committee to carry out the requirements of this section.

[SEC. 13. RESOURCE AND REFERRAL PROGRAMS.

[(a) Recognition.—Each State receiving funds under this Act shall recognize private nonprofit community-based organizations, or public organizations, as resource and referral agencies for particular geographic areas within the State designated by the lead agency under section 6.

[(b) Funding.—Each State receiving funds under this Act shall provide assistance to the organizations referred to in subsection (a) to enable such organizations to—

[(1) identify existing child care services;

[(2) provide information and referral to interested parents;

[(3) provide or arrange for the provision of information, training, and technical assistance to existing and potential child care providers and others concerned with the availability of child care;

[(4) provide information on the demand and supply of child care services within a community; and

[(5) provide technical assistance to new child care providers to assist such providers with budgeting procedures and in understanding and complying with applicable child care regulations, relevant tax policies, and other policies affecting their operations.

[(c) Requirements.—In order to be eligible for recognition as a resource and referral agency for a designated geographic area within a State, an organization must—

[(1) have a database of child care services in the community that the organization continually updates, including centers, nursery schools, and family day care service;

[(2) have among the staff of the organization at least 1 individual that has expertise in child development;

[(3) have the capability to provide resource and referral services in a designated geographic area;

[(4) have office space in a location convenient for parents and employers;

[(5) be able to respond to requests for information or assistance in a timely fashion;

[(6) be committed to providing services to all segments of the general public;

[(7) be a public or a not-for-profit organization located within the community to be served;

[(8) be able to provide parents with a checklist to identify quality child care services;

[(9) be able to provide information on the availability of child care subsidies;

[(10) maintain and make publicly available on request a list of all referrals made by the resource and referral agency; and

[(11) otherwise satisfy regulations promulgated by the lead agency in accordance with subsection (f) of this section.

[(d) FUNCTIONS.—

[(1) INFORMATION.—The organization recognized as a resource and referral service shall gather, update, and provide information concerning—

[(A) the types of child care services available, including services provided by individual family day providers as well as centers, and information on a range of different types of providers, community organizations, employers, and public and private institutions;

[(B) the costs of available child care services;

[(C) the locations in which child care services are provided;

[(D) the forms of transportation available to such locations;

[(E) the hours during which such child care services are available; and

[(F) the children eligible to enroll for such child care services.

[(2) SUPPORT SERVICE.—The organization recognized as a resource and referral service shall provide directly, or through subcontract, the training, technical assistance, and support services that a State receiving funds under this Act is required to make available to family day care providers.

[(e) LIMITATION ON INFORMATION.—In carrying out the provisions of subsection (d), the organization shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

[(f) REGULATIONS.—Each State shall develop regulations to provide guidance to resource and referral agencies within the State, considering the model regulations developed by the National Advisory Committee pursuant to section 18(c)(3).

[SEC. 14. TRAINING.

[(a) MINIMUM REQUIREMENT.—A State receiving funds under this Act shall require that all employed or self-employed persons providing licensed or regulated child care in the State complete at least 15 hours per year of inservice, continuing education, or other training in the areas described in this section, and shall ensure that such training is available.

[(b) GRANTS, ASSISTANCE, AND CLEARINGHOUSE.—

[(1) GRANTS AND CONTRACTS.—The State shall make grants to, and enter into contracts with—

[(A) State and local public agencies, private nonprofit organizations, and institutions of higher education to develop and coordinate a system of child care provider training programs under which preservice and continuing inservice training is provided to caregivers, teachers, administrative personnel, staff of resource and referral programs, and others involved in providing child care in the State; and

[(B) appropriate nonprofit organizations, including resource and referral organizations, child care food program sponsors, and family day care associations, to enable such agencies to provide training and technical assistance to family day care providers.

[(2) REQUIREMENTS OF CERTAIN GRANTS.—Each recipient of a grant under paragraph (1)(B) shall—

[(A) recruit and train new family day care providers, including providers with the capacity to provide night-time child care and emergency child care at irregular hours (as well as emergency care for sick children);

[(B) provide ongoing training to family day care providers, including specialized training in working with infants;

[(C) operate resource centers to make available to family day care providers developmentally appropriate curriculum materials;

[(D) operate a system of substitute caregivers;

[(E) furnish technical assistance to providers to assist such providers in understanding and complying with local regulations and relevant tax and other policies, and in meeting State licensing, registration, or other requirements pertaining to family day care;

[(F) provide subgrants to family day care providers for the purchase of moderate cost equipment; and

[(G) provide such other support to family day care providers in their communities as the State agency determines to be appropriate.

[(3) ASSISTANCE.—The State shall provide scholarship assistance to—

[(A) individuals seeking a Child Development Associate credential for center-based or family day care whose income does not exceed, by more than 50 percent, the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), in amounts sufficient to cover the costs involved in securing such credentials; and

[(B) individuals seeking to meet the inservice training requirements of subsection (a) of this section.

[(4) Clearinghouse.—The State shall establish within the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

[(c) Scope of Training.—

[(1) In general.—Training opportunities provided to enable caregivers to meet the requirements established under subsection (a) must offer a variety of options. Such training may include—

[(A) attendance at workshops and seminars;

[(B) visits to other programs;

[(C) access to resource materials; and

[(D) inservice sessions or enrollment in courses at community colleges or technical schools.

[(2) Content of training.—Such training shall address—

[(A) the provision of services as appropriate to special populations of children, including disabled children, migrant children, and children with limited English language proficiency;

[(B) health and safety, including training in first aid, the recognition of communicable diseases, and child abuse detection and prevention;

[(C) child growth and development;

[(D) guidance and discipline techniques;

[(E) planning learning activities;

[(F) linkages with community services; and

[(G) communication with families.

[SEC. 15. FEDERAL ADMINISTRATION OF CHILD CARE.

[(a) Administrator of Child Care.—The Secretary shall establish within the Department of Health and Human Services an Administrator of Child Care who shall have the responsibility to carry out the provisions of this Act.

[(b) Duties.—The Administrator shall—

[(1) coordinate all activities of the Department relating to child care, and coordinate such activities with similar activities of other Federal agencies;

[(2) annually collect and publish State child care standards and periodic modifications to such standards;

[(3) evaluate the performance of programs and projects carried on with funds provided under this Act;

[(4) act as a clearinghouse to collect and disseminate child care training materials and studies of the salaries of child care workers; and

[(5) issue, amend, or rescind regulations to carry out the provisions of this Act, except that the Secretary shall not issue any revisions to the standards promulgated pursuant to section 18 of this Act that would make such standards any less comprehensive or stringent than the standards as initially promulgated.

[(c) Procedures.—The regulations issued by the Administrator pursuant to this section shall include procedures for receiving, processing, and making determinations on complaints concerning the noncompliance of a State with the State plan or any of the requirements of this Act, including the nondiscrimination provisions of section 20, as well as procedures for the imposition of appropriate sanctions in accordance with section 16.

[(d) STAFF AND RESOURCES.—The Secretary shall make available to the Administrator such staff and resources as are necessary to carry out the functions of the Administrator under this Act.

[SEC. 16. FEDERAL ENFORCEMENT.

[(a) REVIEW OF STATE PLAN AND COMPLIANCE WITH SUCH.—The Secretary shall review and approve State plans submitted in accordance with section 7 and shall monitor State compliance with the provisions of this Act.

[(b) NONCOMPLIANCE.—

[(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State finds—

[(A) that there has been a failure by the State to comply substantially with any provision or any requirements set forth in the State plan of that State; or

[(B) that in the operation of any program or project funded under this Act there is a failure by the State to comply substantially with any applicable provision of this Act,

the Secretary shall notify such State of the findings and that no further payments may be made to such State under this Act (or, in the case of noncompliance by a particular program or project, that further payments to the State will be limited to programs or projects under the State plan found to be in compliance with the Act) until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

[(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this subsection, the Secretary may, in addition to the sanctions described in subsection, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act, and disqualification from the receipt of financial assistance under this Act.

[(3) NOTICE.—The notice required under paragraph (1) shall include notification to a State of any such additional sanctions being imposed.

[SEC. 17. PAYMENTS.

[(a) IN GENERAL.—

[(1) AMOUNT OF ENTITLEMENT.—Each State having a plan approved by the Secretary under section 7 of this Act shall be entitled to payment under this section for each fiscal year in an amount (not to exceed its allotment under section 5) equal to the Federal share of the total sums to be expended by the State under the plan for the fiscal year for which the grant is made.

[(2) FEDERAL SHARE.—The Federal share for each fiscal year shall be 80 percent.

[(3) CONDITION OF ENTITLEMENT.—As a condition of State eligibility for payments under this section, the State shall be required to demonstrate to the satisfaction of the Secretary that the remaining 20 percent of the total expenditures of the State will be provided from other public or private non-Federal sources.

[(4) LIMITATION.—A State may not require any private provider of services that is funded or seeking funds made available under this Act to furnish or contribute in cash or in kind to the State match required by this section.

[(b) INSTALLMENTS.—The Secretary may make payments to a State in installments, and in advance or, subject to the requirement of section 7(c)(3)(F), by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

[(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 5 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

[SEC. 18. NATIONAL ADVISORY COMMITTEE ON CHILD CARE STANDARDS.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—In order to improve the quality of child care the Secretary shall establish a National Advisory Committee on Child Care Standards, the members of which shall be representatives of—

[(A) different types of child care programs;

[(B) resource and referral programs;

[(C) child care and early childhood development specialists;

[(D) early childhood education specialists;

[(E) pediatric health care and related fields;

[(F) organizations representing child care employees;

[(G) individuals who are experienced with regulating child care programs; and

[(H) parents who have been actively involved in community child care programs.

[(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 15 members of which—

[(A) 5 members shall be appointed by the President of the United States;

[(B) 3 members shall be appointed by the majority leader of the Senate;

[(C) 2 members shall be appointed by the minority leader of the Senate;

[(D) 3 members shall be appointed by the Speaker of the House of Representatives; and

[(E) 2 members shall be appointed by the minority leader of the House of Representatives.

[(3) CHAIRMAN.—The Committee shall appoint a chairman from among the members of the Committee.

[(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

[(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

[(1) PERSONNEL.—The Secretary shall make available to the National Advisory Committee adequate office facilities, personnel, technical assistance, and funds as are necessary to carry out effectively the functions of the Committee under this section.

[(2) Reimbursement.—Members of the National Advisory Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the National Advisory Committee or otherwise engaged in the business of the Committee (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 in section 5332 of title 5, United States Code. While serving on the business of the Committee away from the homes or regular places of business, such employees may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

[(3) Oversight.—The Secretary shall ensure that the National Advisory Committee is established and operated in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2).

[(c) Functions.—The National Advisory Committee shall—

[(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

[(2) not later than six months after the date of implementation of such policies, submit to the Secretary proposed minimum standards for child care programs (setting forth separate recommended provisions for center-based programs and for family day care programs and taking into account the different needs of infants, toddlers, preschool and schoolage children); and

[(3) develop and make available to lead agencies model regulations for resources and referral agencies.

[(d) Minimum Child Care Standards.—The proposed minimum child care standards developed pursuant to subsection (c)(1) shall include—

[(1) standards applicable to center-based programs including—

[(A) group size limits in terms of the number of teachers and the number and ages of children;

[(B) the maximum appropriate staff-child ratios;

[(C) qualifications, training, and background of child care personnel, including ongoing training requirements for such personnel (to supplement the provisions in section 14);

[(D) health and safety requirements for children and caregivers; and

[(E) parental involvement in and access to child care and development programs funded under this Act; and

[(2) standards applicable to family day care including—

[(A) the maximum number of children which define family day care;

[(B) the total number of infants permitted in care;

[(C) the minimum age for caregivers; and

[(D) health and safety requirements for children and caregivers.

[(e) Median Standards.—The National Advisory Committee shall determine and propose to the Secretary minimum standards pursuant to subsection (d)(1)(A) and (B) that reflect the median standards for all States as of the date of enactment of this Act.

[(f) Distribution and Consideration of Standards.—

[(1) Standards.—Within three months after receiving the recommendations of the National Advisory Committee, the Secretary shall issue a notice of proposed rulemaking concerning the proposed standards.

[(2) Distribution.—Within 60 days of the issuance of proposed minimum child care standards, the Secretary shall—

[(A) distribute the proposed standards to each lead agency and State advisory committee on licensing for comment; and

[(B) publish the proposed standards in the Federal Register for public notice and comment.

[(3) Consideration.—The Secretary shall, in consultation with the National Advisory Committee, take into consideration any comments received by the Secretary with respect to the standards proposed under paragraph (1), and within 180 days after publication of the proposed standards, publish in the Federal Register the final minimum child care standards.

[(4) Additional comments.—The National Advisory Committee may submit to the Secretary and to the Congress such additional comments on the final minimum child care standards published pursuant to this subsection as the National Committee considers appropriate.

[(g) Termination of Committee.—The National Advisory Committee shall cease to exist 90 days after the date of publication of the final minimum child care standards.

[SEC. 19. PROHIBITION ON EXPENDITURE OF FUNDS FOR CERTAIN PURPOSES.

[(a) Sectarian Purposes or Activities.—

[(1) General rule.—No funds authorized by this Act shall be expended for sectarian purposes or activities.

[(2) Definition.—For purposes of this subsection, the term "sectarian purposes or activities" means—

[(A) any program or activity that has the purpose or effect of advancing or promoting a particular religion or religion generally; or

[(B) with respect to child care services performed on the premises of a pervasively sectarian institution—

[(i) any such services performed in any classroom or other immediate space in which child care is provided unless all religious symbols and artifacts are covered or have been removed from such classroom or space; or

[(ii) any such services performed by persons who are otherwise employed as teachers or teachers' aides in a sectarian school of such an institution which provides full-time educational services.

[(b) CAPITAL IMPROVEMENTS TO SECTARIAN INSTITUTIONS.—

[(1) GENERAL RULE.—No funds provided under this Act shall be expended for capital improvements to sectarian institutions.

[(2) DEFINITION.—For purposes of this subsection, the term "capital improvements to sectarian institutions" shall mean the construction, repair, or renovation of any facility located on the premises of a religious institution unless—

[(A) such institution is not pervasively sectarian; and

[(B) the use of such facility is permanently restricted to nonreligious purposes.

[(c) TUITION.—With regard to services provided to students enrolled in grades one through 12 no funds authorized by this Act shall be expended for—

[(1) any services provided to such students during the regular school day;

[(2) any services for which such students receive academic credit toward graduation; or

[(3) any instructional services which supplant or duplicate the academic program of any public or private school.

[SEC. 20. NONDISCRIMINATION

[(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided to a child care provider under this Act including, a loan, grant, or child care certificate, shall constitute Federal financial assistance within the meaning of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794), and the regulations promulgated under such.

[(b) DISCRIMINATION.—No child care provider receiving Federal financial assistance under this Act shall discriminate against any child on the basis of race, color, national origin, sex, religion, or handicap in the provision of any child care services, including, admission decisions, fees, and discipline.

[(c) EMPLOYMENT DISCRIMINATION.—No child care provider receiving Federal financial assistance under this Act shall engage in any employment discrimination prohibited by title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e, et seq.), notwithstanding the exemption in section 703 of such Act (42 U.S.C. 2000e–2(e)). Nor shall any such provider discriminate in employment on the basis of handicap.]

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Act for Better Child Care Services of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Authorization of appropriations.
Sec. 5. Amounts reserved; allotments.
Sec. 6. Lead agency.
Sec. 7. Application and plan.
Sec. 8. Special rules for use of State allotments.
Sec. 9. Planning grants.

Sec. 10. Continuing eligibility of States.
Sec. 11. State advisory committee on child care.
Sec. 12. Resource and referral programs.
Sec. 13. Training and technical assistance.
Sec. 14. Federal administration of child care.
Sec. 15. Federal enforcement.
Sec. 16. Payments.
Sec. 17. National Advisory Committee on Child Care Standards.
Sec. 18. Limitations on use of financial assistance for certain purposes.
Sec. 19. Nondiscrimination.
Sec. 20. Preservation of parental rights and responsibilities.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity;

(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

(4) the years from birth to age 6 are a critical period in the development of a young child;

(5) a significant number of parents do not have a real choice as they seek adequate child care for their young children because of limited incomes, insufficient State child care standards, and the inadequate supply of child care services in their community;

(6) high quality early childhood development programs provided during such period are cost effective because such programs can reduce the chances of juvenile delinquency and adolescent pregnancy and can improve the likelihood that children will finish high school and become employed;

(7) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

(8) the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

(9) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

(10) many working parents who are unable to afford adequate child care services do not receive adequate financial assistance for such services from employers or public sources;

(11) because of the lack of affordable child care, a large number of parents are not able to work or to seek the training or education they need to become self sufficient;

(12) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

(13) the payment of the exceptionally low salaries to child care workers adversely affects the quality of child care services by making it difficult to retain qualified staff;

(14) several factors result in the shortage of quality child care options for children and parents, including—

(A) the inability of parents to pay for child care services;

(B) the lack of up-to-date information on child care services;

(C) the lack of training opportunities for staff in child care programs;

(D) the high rate of staff turnover in child care facilities; and

(E) the wide differences among the States in child care licensing and enforcement policies; and

(15) improved coordination of child care services will help to promote the most efficient use of child care resources.

(b) PURPOSES.—The purposes of this Act are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services;

(3) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services;

(4) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(5) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(6) to provide assistance to States to improve the quality of, and coordination among, child care programs;

(7) to increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care services to children; and

(8) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care appointed under section 14(a).

(2) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(3) CENTER-BASED CHILD CARE PROVIDER.—The term "center-based child care provider" means a child care provider that provides child care services in a nonresidential facility.

(4) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate that is issued by the State to parents who may use such certificate only as payment for child care

services for an eligible child and that provides to eligible child care providers a right to reimbursement for such services at the fair market rate of such services.

(5) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given such term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(7) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 16 years of age;

(B) whose family income does not exceed 100 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working, seeking employment, or enrolled in a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(8) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(A) is licensed or regulated under State law;

(B) satisfies—

(i) the Federal requirements, except as provided in subparagraph (C); and

(ii) the State and local requirements;

applicable to the child care services it provides; and

(C) after the expiration of the 5-year period beginning on the date the Secretary establishes minimum child care standards under section 17(e)(2), complies with such standards that are applicable to the child care services it provides.

(9) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

(10) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

(11) FULL-WORKING-DAY.—The term "full-working-day" means at least 10 hours per day.

(12) GROUP HOME CHILD CARE PROVIDER.—The term "group home child care provider" means 2 or more individuals who jointly provide child care services for fewer than 24 hours per day and in a private residence.

(13) HANDICAPPING CONDITION.—The term "handicapping condition" means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or

section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1471(a)).

(14) INDIAN TRIBE.*—The term "Indian tribe" has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).*

(15) INSTITUTION OF HIGHER EDUCATION.*—The term "institution of higher education" has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).*

(16) LEAD AGENCY.*—The term "lead agency" means the agency designated under section 6(a).*

(17) LOCAL EDUCATIONAL AGENCY.*—The term "local educational agency" has the meaning given that term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).*

(18) PARENT.*—The term "parent" includes a legal guardian or other person standing in loco parentis.*

(19) SCHOOL-AGE CHILD CARE SERVICES.*—The term "school-age child care services" means child care services that are—*

"(A) provided during such times of the school day when regular instructional services are not in session; and

"(B) not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment which enhances the social, emotional, and recreational development of children of school age;

(20) SECONDARY SCHOOL.*—The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.*

(21) SECRETARY.*—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.*

(22) SCHOOL FACILITIES.*—The term "school facilities" means classrooms and related facilities used to provide education.*

(23) SLIDING FEE SCALE.*—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family with the very low income families having to pay no cost.*

(24) STATE.*—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.*

(25) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.*—The term "unit of general purpose local government" means any city, county, town, township, parish, village, a combination of such general purpose political subdivisions including those in two or more States, or other general purpose political subdivisions of a State.*

(26) TRIBAL ORGANIZATION.—*The term "tribal organization" has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).*

(27) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—*The term "tribally controlled community college" has the meaning given it in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).*

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

To carry out this Act, there are authorized to be appropriated $2,500,000,000 for the fiscal year 1989 and such sums as may be necessary in each of the fiscal years 1990 through 1993.

SEC. 5. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—*The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under section 4 in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.*

(2) INDIANS.—*The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount appropriated under section 4 in each fiscal year, to carry out subsection (c) regarding Indian children.*

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—*From the remainder of the sums appropriated under section 4 for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—*

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

(2) YOUNG CHILD FACTOR.—*The term "young child factor" means the ratio of the number of children in the State who are less than 5 years of age to the number of children in all the States who are less than 5 years of age.*

(3) SCHOOL LUNCH FACTOR.—*The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.*

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—*The allotment percentage for a State is determined by dividing—*

(i) the per capita income of all individuals in the United States; by

(ii) the per capita income of all individuals in the State.

(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

(i) exceeds 1.2, then the allotment percentage of that State shall be considered to be 1.2; and

(ii) is less that 0.8, then the allotment percentage of the State shall be considered to be 0.8.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of a Indian tribe or tribal organization enter into a contract with, or make a grant to such Indian tribe or tribal organization for a period of 3 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this Act. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655–657), that are relevant to such programs and activities.

(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

(3) STANDARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

(i) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

(ii) the State licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

(B) APPLICATION.—

(i) RULE.—Except as provided in clause (ii), after the Secretary establishes minimum child care standards under section 17(e)(2), such minimum standards shall apply with respect to child care services provided under such programs and activities.

(ii) WAIVERS AND MODIFICATIONS.—The Secretary may waive or modify, for a period not to exceed 5 years beginning on the date such minimum standards are established, any of such minimum standards that would limit the capacity of an Indian tribe or tribal organization to receive funds under this Act if the Secretary determines that there is a reasonable expectation that each of such standards requested to be waived will be met by the applicant by the end of the period for which the waiver is requested.

(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this Act by the State in which the applicant proposes to carry out a program to provide child care services.

(5) RULE OF CONSTRUCTION.—This subsection shall not be construed—

(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this Act by a State; or

(B) to modify any requirement imposed on a State by any provision of this Act.

(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this Act.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 7(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 7(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this Act, any amount reallotted to a State under this subsec-

tion shall be deemed to be part of the allotment made under subsection (b) to the State.

(f) DEFINITION.—For the purposes of this section, the term "State" means any of the several 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 6. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this Act shall designate, in an application submitted to the Secretary under section 7(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

(b) REQUIREMENTS.—

(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this Act to support programs and services authorized under this Act and to oversee the plan submitted under section 7(b).

(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this Act with the services of other State and local agencies involved in providing services to children.

(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this Act.

(c) DUTIES.—The lead agency shall—

(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services for which assistance is provided under this Act or under other laws, in meeting such needs;

(2) develop a plan designed to meet the need for child care services in the State for eligible children, including infants, preschool children, and school-age children, giving special attention to meeting the needs for services for low-income children, migrant children, children with a handicapping condition, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency;

(3) develop, in consultation with the State advisory committee on child care established under section 11, the State plan submitted to the Secretary under section 7(b);

(4) hold hearings, in cooperation with such State advisory committee on child care, annually in each region of the State in order to provide to the public an opportunity to comment on the provision of child care services in the State under the proposed State plan;

(5) make such periodic reports to the Secretary as the Secretary may by rule require;

(6) coordinate the provision of services under this Act with—

(A) other child care programs and services, and with educational programs, for which assistance is provided under any State, local, or other Federal law, including the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.); and

(B) other appropriate services, including social, health, mental health, protective, and nutrition services, available to eligible children under other Federal, State, and local programs; and

(7) designate resource and referral programs for particular geographical areas in the State that meet the requirements of section 12(c).

SEC. 7. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this Act, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this Act and a State plan that is designed to be implemented during a 5-year period and that meets the requirements of subsection (c).

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The plan shall identify the lead agency designated in accordance with section 6(a).

(2) ADVISORY BODIES.—The plan shall demonstrate that the State will establish in accordance with section 11 a State advisory committee on child care.

(3) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

(A) That—

(i) all providers of child care services for which assistance is provided under this Act comply with all licensing and regulatory requirements (including registration requirements) applicable under State and local law; and

(ii) such requirements are imposed and enforced by the State uniformly on all child care providers that provide child care services under similar child care arrangements.

This subparagraph shall not be construed to prohibit a State to impose more stringent standards or requirements on child care providers who provide services for which assistance is provided under this Act and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

(B) That procedures will be established to ensure that child care providers receiving assistance under this Act or under other publicly-assisted child care programs comply with the minimum child care standards established under section 17(e)(2) after the expiration of the 5-year period beginning on the date the Secretary establishes such standards, and comply with all applicable State and local licensing and regulatory requirements (including registration requirements).

(C) That the State will not—

(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of this Act; or

(ii) reduce the level of standards applicable to child care services provided in the State and to the matters specified in sections 13(a) and 17(d), even if such standards exceed the minimum standards established under section 17(e)(2) by the Secretary unless the State demonstrates, to the satisfaction of both the Secretary and the State advisory committee on child care established under section 11, that the reduction is based on positive developmental practice.

(D) That funds received under this Act by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of child care services and related programs in the State, except that States may use existing expenditures in support of child care services to satisfy the State matching requirement under section 16(b).

(E) That for each fiscal year the State will use an amount not to exceed 10 percent of the amount of funds received under section 5 by the State for such fiscal year to administer the State plan.

(F) That the State will pay funds under this Act to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

(G) That resource and referral agencies will be made available to families in all regions of the State.

(H) That each eligible child care provider who provides services for which assistance is provided under paragraph (4)—

(i) provides services to children of families with very low income, taking into account family size;

(ii) after the expiration of the 5-year period beginning on the date the Secretary establishes minimum child care standards under section 17(e)(2), complies with such standards except as provided in clause (iv);

(iii) if such eligible child care provider is regulated by a State educational agency that—

(I) administers any State law applicable to child care services;

(II) develops child care standards that meet or exceed the minimum standards established under section 17(e)(2) and the State licensing or regulatory requirements (including registration requirements); and

(III) enforces the standards described in subclause (II) that are developed by such agency, using policies and practices that meet or exceed the requirements specified in subparagraphs (A) through (K) of paragraph (11);

complies with the standards described in subclause (II) that are developed by such agency; and *(iv) complies with the State plan and the requirements of this Act.*

(I) That child care services for which assistance is provided under paragraph (4) are available to children with a handicapping condition.

(J) That State regulations will be issued governing the provision of school-age child care services if the State does not already have such regulations.

(K) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this Act.

(L) Encourage the payment of adequate salaries and other compensation—

(i) to full and part-time staff of child care providers who provide child care services for which assistance is provided under paragraph (4);

(ii) to the extent practicable, to such staff in other major Federal and State child care programs; and

(iii) to other child care personnel, at the option of the State.

(M) That child care services for which assistance is provided under paragraph (4) are available for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

(4) CHILD CARE SERVICES.—The plan shall provide that—

(A) subject to subparagraph (B), the State will use at least 75 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this Act to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 8(a)(1), with priority being given for services to children of families with very low family incomes, taking into consideration the size of the family; and

(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to provide for the extension of part-day programs as described in section 8(b).

(5) CHILD CARE ACTIVITIES.—The plan shall provide that the State will use not more than 15 percent of the amount allotted to it in any fiscal year to do all of the following, together with an assurance that the State will give priority to the activities described in subparagraph (B):

(A) Develop and provide financial assistance for State and local resource and referral programs under section 12.

(B) Improve the quality of child care services in the State by—

(i) improving the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State; and

(ii) providing training, technical assistance, and scholarship assistance in accordance with the requirements of subsections (b), (c), and (d) of section 13.

(C) Ensure that adequate salaries and other compensation are paid to full- and part-time staff who provide child care services for which assistance is provided under paragraph (4).

(D) Make grants and low interest loans to family child care providers and nonprofit child care providers to help such providers pay the cost of—

(i) establishing child care programs; and

(ii) making renovations and improvements in existing facilities to be used to carry out such programs.

(E) Make grants and low-interest loans to child care providers to assist such providers in meeting Federal, State, and local child care standards, giving priority to providers receiving assistance under this Act or under other publicly assisted child care programs that serve children of families that have very low incomes.

(6) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed—

(A) to a variety of types of child care providers in each community, including center-based child care providers, group home child care providers, and family child care providers; and

(B) equitably among child care providers to provide child care services in rural and urban areas.

(7) REIMBURSEMENTS.—The plan shall provide that for child care services for which assistance is provided under this Act, reimbursement shall be made at not less than the fair market rate for such services in the geographical area in the State in which such services are being provided and that such reimbursement will reflect the additional cost to a provider of special services or a provider serving special populations of children, with a higher rate of reimbursement being provided for—

(A) care of children from birth to 2 years of age;

(B) programs providing comprehensive child care services and family support services to adolescent parents; and

(C) the care of eligible children who have a handicapping condition.

(8) PRIORITY.—The plan shall provide that priority will be given, in distributing funds in the State, to child care providers that—

(A) in providing child care services assisted by such funds, will give priority to eligible children of families with very low income;

(B) to the maximum extent feasible, provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a handicapping condition;

(C) provide opportunities for parent involvement in all aspects of providing such services; and

(D) to the maximum extent feasible, offer family support services.

(9) SLIDING FEE SCALE.—The plan shall provide for the establishment of a sliding fee scale that requires cost sharing based on the services provided to and the income of the families (ad-

justed for family size) of eligible children who receive services for which assistance is provided under this Act.

(10) Parental involvement.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in the State.

(11) Enforcement of licensing and other regulatory requirements (including registration requirements).—The plan shall provide that the State, not later than 5 years after the date of enactment of this Act, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to receive training in child development, health and safety, child abuse prevention and detection, program management, and relevant law enforcement;

(B) make available the training required by subparagraph (A);

(C) impose personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and have inspection responsibility exclusively for children's services;

(D) require—

(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider and each group home child care provider in the State annually;

(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections annually of not less than 20 percent of licensed and regulated family child care providers in the State; and

(iii) inspections to be conducted during the normal hours of operation of family child care homes in the State;

(E) require the ratio of licensing staff to child care providers in the State to be maintained at a level sufficient to enable the State to conduct inspections of child care facilities and providers on a timely basis and otherwise to comply with the enforcement requirements of this section;

(F) require licensed or regulated child care providers (including registered child care providers) in the State—

(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

(ii) to provide parents with unlimited access to their children and to providers caring for their children, during normal hours of operation of such providers and whenever children of such parents are in the care of such providers;

(G) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program assisted under this Act, to be heard by the State;

(H) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

(I) implement a consumer education program designed to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

(J) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

(K) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

(12) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

(A) by race, sex, ethnic origin, handicapping condition, and family income, how the child care needs of families in the State are being fulfilled, including information on—

(i) the number of children being assisted with funds provided under this Act, and under other State and Federal child care and preschool programs;

(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

(iii) the regional cost of child care; and

(iv) such other information as the Secretary considers necessary to establish how funds provided under this Act are being used;

(B) the extent to which the availability of child care has been increased; and

(C) how the purposes of this Act and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care;

and shall provide that data collected by the State under this paragraph shall be submitted to the Secretary.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(e) SPECIAL RULE.—In carrying out the provisions of this section, the Secretary shall approve any application with respect to the activities described in the plan under paragraph (5) of subsection (c), if the Secretary determines that the State is making reasonable

progress in carrying out the activities which are described in subparagraphs (A), (C), (D), and (E) of paragraph (5).

SEC. 8. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

(a) FUNDING OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The child care services referred to in section 7(c)(4) that are to be provided out of the allotment to a State, shall be provided—

(A) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children;

(B) by grants to units of general purpose local government that agree to enter into contracts with eligible child care providers who agree to provide such services directly to eligible children; or

(C) by distributing child care certificates to parents of eligible children under such terms as the Secretary may prescribe to enable the recipients of such certificates to purchase child care services from eligible child care providers.

(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized by paragraph (1)(C) may be issued by a State only if a resource and referral program carried out by an organization recognized under section 12(a) by the State is available to help parents locate child care services made available by eligible child care providers.

(b) PART-DAY PROGRAMS.—

(1) IN GENERAL.—At least 10 percent of the funds available for activities under section 7(c)(4)(A) shall be used by the State to enable child care providers to extend the hours of operation of the part-day programs described in paragraph (2) to provide full-working-day child care services throughout the year, in order to meet the needs of parents of eligible children.

(2) ELIGIBLE PROGRAMS.—The part-day programs referred to in paragraph (1) means—

(A) programs of schools and nonprofit child care providers (including community-based organizations) receiving State or local funds designated for preschool;

(B) programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschool programs for which assistance is provided under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

(D) preschool programs for children with a handicapping condition.

(c) FACILITIES.—

(1) NEW FACILITIES.—No financial assistance provided under this Act shall be expended for the construction of a new facility.

(2) EXISTING FACILITIES.—No financial assistance provided under this Act shall be expended to renovate or repair any facility unless—

(A) the child care provider that receives such financial assistance agrees—

(i) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears

the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this Act, bears to the original value of the renovation or repair; and

(ii) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this Act;

if such provider does not provide child care services in such facility in accordance with this Act throughout the useful life of the renovation or repair; and

(B) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed by this Act.

SEC. 9. PLANNING GRANTS.

(a) IN GENERAL.—A State desiring to participate in the programs authorized by this Act that cannot fully satisfy the requirements of the State plan under section 7(b) without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 7(b); and

(2) the State will apply, for the remainder of the allotment that the State is entitled to receive for such fiscal year.

(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify to receive in the fiscal year involved if the State fully satisfied the requirements of section 7.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be considered to be expended for administrative costs by the State for purposes of determining the compliance by the State with the limitation on administrative costs imposed by section 7(c)(3)(E).

SEC. 10. CONTINUING ELIGIBILITY OF STATES.

A State shall be ineligible for assistance under this Act after the expiration of the 5-year period beginning on the date the Secretary establishes minimum child care standards under section 17(e)(2) unless the State demonstrates to the satisfaction of the Secretary that—

(1) all child care providers required to be licensed and regulated in the State—

(A) are so licensed and regulated; and

(B) are subject to the enforcement provisions referred to in the State plan; and

(2) all such providers who are receiving assistance under this Act or under other publicly-assisted child care programs—

(A) satisfy the requirements of subparagraphs (A) and (B) of paragraph (1); and

(B) satisfy the minimum child care standards established by the Secretary under section 17(e)(2) of this Act.

SEC. 11. STATE ADVISORY COMMITTEE ON CHILD CARE.

(a) ESTABLISHMENT.—The chief executive officer of a State participating in the program authorized by this Act shall—

(1) establish a State advisory committee on child care (hereinafter in this section referred to as the "committee") to assist the lead agency in carrying out the responsibilities of the lead agency under this Act; and

(2) appoint the members of the committee.

(b) COMPOSITION.—The State committee shall be composed of not fewer than 21 and not more than 30 members who shall include—

(1) at least 1 representative of the lead agency designated under section 6(a);

(2) 1 representative of each of—

(A) the State departments of—

(i) human resources or social services;

(ii) education;

(iii) economic development; and

(iv) health; and

(B) other State agencies having responsibility for the regulation, funding, or provision of child care services in the State;

(3) at least 1 representative of providers of different types of child care services, including caregivers and directors;

(4) at least 1 representative of early childhood development experts;

(5) at least 1 representative of school districts and teachers involved in the provision of child care services and preschool programs;

(6) at least 1 representative of resource and referral programs;

(7) 1 pediatrician;

(8) 1 representative of a citizen group concerned with child care;

(9) at least 1 representative of an organization representing child care employees;

(10) at least 1 representative of the Head Start agencies in the State;

(11) parents of children receiving, or in need of, child care services, including at least 2 parents whose children are receiving or are in need of subsidized child care services;

(12) 1 representative of specialists concerned with children who have a handicapping condition;

(13) 1 representative of individuals engaged in business;

(14) 1 representative of fire marshals and building inspectors;

(15) 1 representative of child protective services; and

(16) 1 representative of units of general purpose local government.

(c) FUNCTIONS.—The committee shall—

(1) advise the lead agency on child care policies;

(2) provide the lead agency with information necessary to coordinate the provision of child care services in the State;

(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 6(c);

(4) review and evaluate child services for which assistance is provided under this Act or under State law, in meeting the objectives of the State plan and the purposes of this Act;

(5) make recommendations on the development of State child care standards and policies;

(6) participate in the regional public hearings required under section 6(c)(5); and

(7) perform other functions to improve the quantity and quality of child care services in the State.

(d) MEETINGS AND HEARINGS.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the committee shall meet and establish the time, place, and manner of future meetings of the committee.

(2) MINIMUM NUMBER OF HEARINGS.—The committee shall have at least 2 public hearings each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

(e) USE OF EXISTING COMMITTEES.—To the extent that a State has established a broadly representative State advisory group, prior to the date of enactment of this Act, that is comparable to the advisory committee described in this section and focused exclusively on child care and early childhood development programs, such State shall be considered to be in compliance with subsections (a) through (c).

(f) SUBCOMMITTEE ON LICENSING.—

(1) COMPOSITION.—The committee shall have a subcommittee on licensing (hereinafter in this section referred to as the "subcommittee") that shall be composed of the members appointed under paragraphs (2)(A)(iv), (3), (6), (7), (11), (14), and (15) of subsection (b).

(2) FUNCTIONS.—

(A) REVIEW OF LICENSING AUTHORITY.—The subcommittee shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 4-year period ending on the date of the establishment of the committee under subsection (a).

(B) REPORT.—Not later than 1 year after establishment of the committee under subsection (a), the subcommittee shall prepare and submit to the chief executive officer of the State involved a report.

(C) CONTENTS OF REPORT.—A report prepared under subparagraph (B) shall contain—

(i) an analysis of information on child care services provided by center-based child care providers, group home child care providers, and family child care providers;

(ii) a detailed statement of the findings and recommendations that result from the subcommittee review under subparagraph (A), including a description of the

current status of child care licensing, regulating, monitoring, and enforcement in the State;

(iii) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an assessment of the adequacy of staff to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs; and

(iv) comments on the minimum child care standards established by the Secretary under section 17(e)(2).

(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the subcommittee, the chief executive officer of the State shall transmit such report to the Secretary with—

(A) the comments of the chief executive officer of the State; and

(B) a plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in paragraph (2)(A).

(4) TERMINATION OF ASSISTANCE.—None of the funds received under this Act may be used to carry out any activity under this section occurring more than 90 days after the State submits a report required by subsection (d).

(g) SERVICES AND PERSONNEL.—

(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee and the subcommittee to carry out their functions under this Act.

(2) REIMBURSEMENT.—Members of the committee shall be reimbursed, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the functions of the committee and the subcommittee.

(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to the committee and the subcommittee to carry out the requirements of this section.

SEC. 12. RESOURCE AND REFERRAL PROGRAMS.

(a) RECOGNITION.—Each State receiving funds under this Act shall designate private nonprofit community-based organizations, or public organizations (including units of general purpose local government), as resource and referral agencies for particular geographical areas in the State.

(b) FUNDING.—Each State receiving funds under this Act shall provide assistance to the organizations designated under subsection (a) to enable such organizations to carry out resource and referral programs—

(1) to identify existing child care services;

(2) to provide to interested parents information and referral regarding such services;

(3) to provide or arrange for the provision of information, training, and technical assistance to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

(4) to provide information on the demand for and supply of child care services located in a community.

(c) REQUIREMENTS.—To be eligible for designation as a resource and referral agency for a particular geographical area in a State, an organization shall—

(1) have or acquire a database of information on child care services in the particular geographical area that the organization continually updates, including child care services provided in centers, group home child care settings, nursery schools, and family child care settings;

(2) have among the staff of the organization at least 1 individual who has expertise in child development;

(3) have the capability to provide resource and referral services in the particular geographical area;

(4) be able to respond in a timely fashion to requests for information or assistance;

(5) be a public, or a private nonprofit community-based organization, located in the particular geographical area to be served;

(6) be able to provide parents with a checklist to identify quality child care services;

(7) agree to notify all eligible child care providers in such area of the functions it performs and solicit such providers to request to be listed to receive referrals made by such organization; and

(8) otherwise comply with regulations promulgated by the State in accordance with subsection (f).

(d) FUNCTIONS.—

(1) INFORMATION.—Each organization designated under subsection (a) as a resource and referral agency shall gather, update, and provide information concerning—

(A) all types of eligible child care providers;

(B) the types of child care services available from eligible child care providers, including services provided by individual family child care providers and by child care providers who provide child care services to children with a handicapping condition;

(C) the costs of available child care services;

(D) the availability of subsidies to obtain child care services;

(E) the locations in which child care services are provided;

(F) the forms of transportation to such locations available to parents; and

(G) the hours during which such child care services are available.

(2) SUPPORT SERVICE.—Each organization designated under subsection (a) as a resource and referral agency shall inform child care providers of training and technical assistance available in the areas in which such providers operate, or shall provide directly or through contract such training and technical assistance to such providers.

(e) LIMITATION ON INFORMATION.—In carrying out subsection (d), an organization designated under subsection (a) as a resource and

referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

SEC. 13. TRAINING AND TECHNICAL ASSISTANCE.

(a) MINIMUM REQUIREMENT.—A State receiving funds under this Act shall require, not later than 2 years after the date of the enactment of this Act, that all employed or self-employed individuals who provide licensed or regulated child care services (including registered child care services) in a State complete annually at least 15 hours of training in the areas described in subsection (b)(2).

(b) GRANTS AND CONTRACTS FOR TRAINING AND TECHNICAL ASSISTANCE.—

(1) GRANTS AND CONTRACTS.—The State shall make grants to, and enter into contracts with—

(A) State agencies, units of general purpose local government, private nonprofit organizations, and institutions of higher education to develop and carry out child care training and technical assistance programs under which preservice and continuing inservice training is provided to staff of eligible child care providers, teachers, administrative personnel, and staff of resource and referral programs involved in providing child care services in the State; and

(B) nonprofit organizations, including resource and referral organizations, child care food program sponsors, and family child care associations, to enable such organizations to develop and carry out child care training and technical assistance programs under which preservice and inservice training is provided to eligible child care providers that are family child care providers.

(2) SCOPE OF TRAINING.—Such training shall address—

(A) the provision of services as appropriate to special populations of children, including children with a handicapping condition, abused and neglected children, migrant children, and children with limited English language proficiency; and

(B) health and safety, including training in nutrition, first aid, the recognition of communicable diseases, and child abuse detection and prevention;

(C) child growth and development;

(D) guidance and discipline techniques;

(E) planning learning activities;

(F) linkages with community services;

(G) communication with families; and

(H) management practices and procedures, including risk management.

(3) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TRAINING FOR FAMILY CHILD CARE PROVIDERS.—To be eligible to receive a grant or enter into a contract under paragraph (1)(B), a nonprofit organization shall—

(A) recruit and train family child care providers, including providers with the capacity to provide night-time child care services and emergency child care services at irregular hours (as well as emergency care for sick children);

(B) provide ongoing training to individuals who are family child care providers, including specialized training in working with infants;

(C) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

(D) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services;

(E) operate a system of substitute caregivers; and

(F) provide such other services to family child care providers in the communities of such organization as the lead agency determines to be appropriate.

(4) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TECHNICAL ASSISTANCE.—To be eligible to receive a grant, or enter into a contract under subsection (b) to provide technical assistance, an agency, organization, or institutions shall agree to furnish technical assistance to child care providers to assist such providers—

(A) in understanding and complying with local regulations and relevant tax and other policies;

(B) in meeting State licensing, regulatory, and other requirements (including registration) pertaining to family child care providers.

(c) SCHOLARSHIP ASSISTANCE.—The State shall provide scholarship assistance to—

(1) individuals who seek a nationally recognized child development associate credential for center-based or family child care and whose income does not exceed the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) by more than 50 percent, in amounts sufficient to cover the costs involved in securing such credential; and

(2) caregivers who seek to obtain the training referred to in subsection (a) and whose income does not exceed such poverty line.

(d) CLEARINGHOUSE.—The State shall establish in the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

SEC. 14. FEDERAL ADMINISTRATION OF CHILD CARE.

(a) ADMINISTRATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Administrator of Child Care (hereinafter in this section referred to as the "Administrator"). The Secretary shall appoint an individual to serve as the Administrator at the pleasure of the Secretary.

(b) DUTIES.—The Administrator shall—

(1) coordinate all activities of the Department by Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) annually collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this Act;

(4) act as a clearinghouse to collect and disseminate materials that relate to—

(A) the matters required by section 13(b)(1) to be addressed by training required by section 13 to be provided; and

(B) studies that relate to the salaries paid to individuals employed to provide child care services; and

(5) provide technical assistance to assist States to carry out this Act.

SEC. 15. FEDERAL ENFORCEMENT.

(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this Act and the plan approved under section 7(d) for the State.

(b) NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 7(d) for the State; or

(B) in the operation of any program or project for which assistance is provided under this Act there is a failure by the State to comply substantially with any provision of this Act;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this Act (or, in the case of noncompliance in the operation of program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act, and disqualification from the receipt of financial assistance under this Act.

(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this Act; and

(2) imposing sanctions under this section.

SEC. 16. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application approved by the Secretary under section 7(d); and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 5 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 80 percent.

(B) EXCEPTION.—If a State makes the demonstration specified in section 10 throughout a fiscal year for which it requests a grant, then the Federal share shall be 85 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this Act to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 7(c)(3)(F).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 5 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 17. NATIONAL ADVISORY COMMITTEE ON CHILD CARE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this Act, a National Advisory Committee on Child Care Standards (hereinafter in this section referred to as the "Committee"), the members of which shall be appointed from among representatives of—

(A) persons who carry out different types of child care programs;

(B) persons who carry out resource and referral programs;

(C) child care and early childhood development specialists;

(D) early childhood education specialists;

(E) individuals who have expertise in pediatric health care, handicapping conditions, and related fields;

(F) organizations representing child care employees;

(G) individuals who have experience in the regulation of child care services;

(H) parents who have been actively involved in community child care programs; and

(I) State government and units of general purpose local government.

(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 15 members of which—

(A) 5 members shall be appointed by the President;

(B) 3 members shall be appointed by the majority leader of the Senate;

(C) 2 members shall be appointed by the minority leader of the Senate;

(D) 3 members shall be appointed by the Speaker of the House of Representatives; and

(E) 2 members shall be appointed by the minority leader of the House of Representatives.

(3) CHAIRMAN.—The Committee shall appoint a chairman from among the members of the Committee.

(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS–18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed minimum standards described in subsection (d) for child care services, taking into account the different

needs of infants, toddlers, preschool and school-age children; and

(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies .

(d) MINIMUM CHILD CARE STANDARDS.—The proposed minimum child care standards submitted pursuant to subsection (c)(2) shall consist of only the following:

(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

(A) group size limits in terms of the number of caregivers and the number and ages of children;

(B) the maximum appropriate child-staff ratios;

(C) qualifications and background of child care personnel;

(D) health and safety requirements for children and caregivers; and

(E) parental involvement in licensed and regulated child care services.

The standards described in subparagraphs (A) and (B) shall reflect the median standards for all States (using for States which apply separate standards to publicly-assisted programs the most comprehensive or stringent of such standards) as of the date of enactment of this Act.

(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

(B) the minimum age for caregivers; and

(C) health and safety requirements for children and caregivers.

(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the committee, the Secretary shall—

(A) publish in the Federal Register—

(i) a notice of proposed rulemaking concerning the minimum standards proposed under subsection (d) to the Secretary; and

(ii) such proposed minimum standards for public comment for a period of at least 60 days; and

(B) distribute such proposed minimum standards to each lead agency and each State subcommittee on licensing for comment.

(2) ESTABLISHMENT OF MINIMUM CHILD CARE STANDARDS.—

(A) ISSUANCE OF RULES.—The Secretary shall, in consultation with the committee—

(i) take into consideration any comments received by the Secretary with respect to the standards proposed under subsection (d); and

(ii) not later than 180 days after publication of such standards, shall issue rules establishing minimum child care standards for purposes of this Act. Such standards shall include the nutrition requirements issued, and revised from time to time, under section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)).

(B) AMENDING STANDARDS.—The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

(3) ADDITIONAL COMMENTS.—The National Committee may submit to the Secretary and to the Congress such additional comments on the minimum child care standards established under paragraph (2) as the National Committee considers appropriate.

(f) TERMINATION OF COMMITTEE.—The National Committee shall cease to exist 90 days after the date the Secretary establishes minimum child care standards under subsection (e)(3).

SEC. 18. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this Act shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

SEC. 19. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this Act, including a loan, grant, or child care certificate, shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—A child care provider may not discriminate against any child on the basis of religion in providing child care services in return for a fee paid, reimbursement received, or certificate redeemed, in whole or in part with financial assistance provided under this Act.

SEC. 20. PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this Act shall be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

II. SUMMARY OF THE BILL

On July 27, 1988, the Labor and Human Resources Committee reported the Act for Better Child Care Services (ABC) by unanimous voice vote. The bill authorizes $2.5 billion for FY89 and such sums as may be necessary for fiscal years 1990–93. The legislation provides for direct assistance to families whose family income does not exceed 100 percent of state median income to help them pay for child care services for children up to age 15. Priority is given to families of very low income. The bill is also designed to create an infrastructure in each state that will encourage quality and increase the supply of child care services. Funds are allocated to the states by a formula that takes into account the number of children under five, the number of children receiving reduced price lunches, and the per capita income of the state. A nonfederal match of 20 percent is required, but it is reduced to 15 percent after 5 years if the state meets federal standards for publicly assisted programs.

To receive funds, a state msut submit a 5-year state plan, establish an advisory committee, maintain or improve licensing standards, and establish resource and referral agencies in each geographic area of the state. After five years, the state must ensure that all child care providers required to be licensed and regulated are so licensed and regulated and that all recipients of public child care funds meet minimum federal health and safety standards. The state must also improve its enforcement of licensing requirements and implement a complaints procedure and consumer education program. States are responsible for data collection on the number and demographic characteristics of children receiving government-subsidized child care in the state.

States must use seventy-five percent of the ABC funds to provide parents with grants or vouchers for direct child care services, with a priority for children from families with very low incomes. Ten percent of these funds must be used to extend part-day pre-school and Head Start programs to full-day programs. A state may use up to fifteen percent of funds to make reasonable progress in all of the following areas: provide resource and referral services; upgrade salaries of child care workers; improve compliance with licensing requirements; provide training, technical and scholarship assistance; and make grants and low interest loans to child care providers to comply with standards, and to family and nonprofit providers to establish programs and renovate facilities. States may use up to 10 percent of the ABC funds for administrative purposes.

The bill also established a National Advisory Committee on Standards which will establish minimum health and safety standards in key areas for publicly assisted center-based and family day care providers. As stated above, five years after these standards are issued by the Secretary of HHS, a state must assure that all publicly assisted child care providers are in compliance.

III. BACKGROUND AND NEED FOR LEGISLATION

HISTORY OF FEDERAL CHILD CARE LEGISLATION

Traditionally, the Federal government's involvement in child care has been based on the philosophy that government should help parents with work-related child care expenses. The Lanham Act of 1943, the first significant Federal investment in child care services, provided funds to care for the children of mothers working in wartime industries. The Lanham Act programs ended soon after the war. Since then, the Federal government's involvement in child care has mainly been through the Child and Dependent Care Tax Credit, which offers a credit (based on family income) to working families to help offset their work-related child care expenses.

While there are now 31 programs that contain some funding for child care services, there is no Federal program whose sole purpose is to provide financial assistance to help families pay for child care. The largest Federal program assisting families with children is the Child and Dependent Care Tax Credit (about $3.9 billion per year). This credit, available to working families with dependent care expenses—including child care—allows these families to deduct between 20 and 30 percent of their dependent care expenses (up to $2,400 for one child and $4,800 for two or more children) from their tax liability. However, because this credit is not refundable, lower-income families with little or no tax liability cannot benefit from the credit. Furthermore, the average credit is less than $350 per taxpayer, hardly sufficient to offset child care costs averaging $3,000 per year. In addition, working families with dependent care expenses must pay for care on a daily or perhaps weekly basis. A refund at the end of the year does not help pay for these services when they are needed. Finally, the tax credit mechanism does nothing to improve the supply or quality of care available to parents. There is no Federal program which comprehensively coordinates resources to enhance the supply of quality child care in this country.

The next largest expenditure on child care is the Title XX Social Services Block Grant (SSBG), which provides approximately $2.7 billion per year for a variety of social service activities, including child care. However, only 15 to 18 percent of the funds are used for child care nationwide. Furthermore, the funding for this program has been cut drastically over the years (by 20 percent in 1981 alone). All told, budget cuts and inflation have reduced the buying power of the SSBG by one-half since it was first authorized in 1976. Twenty-eight states spent less in real dollars on Title XX child care programs in 1987 than they did in 1981, even though the number of children under 6 living in poverty rose. Twenty-two states served fewer children in 1987 than they did in 1981.

Head Start is a program for disadvantaged children, designed to provide them with the social, educational, and nutritional services they need for successful development. Even at the current appropriation level of $1 billion, Head Start only serves about 18 percent of its eligible population. Furthermore, approximately 84 percent of Head Start programs are part-day, whereas 42 percent of those on Head Start waiting lists work full-time. Provisions in welfare reform legislation pending in the 100th Congress will require mothers of children as young as three to enroll in work, training, or education programs, further straining this already limited supply of care for these disadvantaged children.

INTRODUCTION OF THE ACT FOR BETTER CHILD CARE SERVICES

The purpose of the Act for Better Child Care Services of 1988 is to increase the availability, affordability, and quality of child care throughout the nation. The legislation provides direct financial assistance to low-income and working families to help them find and afford quality child care services for their children. It also contains provisions to enhance the quality and increase the supply of child care available to *all* parents, including those who receive no direct financial assistance under the Act. Building an infrastructure from which all parents and children benefit while targetting financial assistance to those most in need, this legislation comprehensively addresses the nation's child care needs.

The demand for child care is influenced by many factors. Demographically, the post-World War II baby boom resulted in record numbers of births between 1946 and 1964. And although the birth rate and fertility of women have decreased since 1960, these baby boomers are now having children of their own. As a result, there are now 21.6 million preschool-age children in America, and that number is expected to reach 23 million by 1990. The number of school-age children in 1985 was 41.4 million; this number is expected to increase to almost 45 million by 1995.

Currently, 56 percent of all American women are in the workforce. Eighty percent of these women are in their prime childbearing years. This suggests that the number of mothers in the labor force is, and will continue to be, substantial. In 1970, 45 percent of mothers with children under 18 (34 percent of those with children under 6) were in the labor force. By 1984, 63 percent of mothers with children under 18 (53 percent of mothers with children under six) were in jobs outside the home. Moreover, in 1985, 84 percent of all black working mothers, 69 percent of all white working mothers, and 79 percent of hispanic working mothers worked full-time.

Researchers cite many reasons for mothers' increase labor force participation, among them: (1) the desire to maintain a decent standard of living, often requiring two incomes, and (2) high divorce rates, which have forced increasing numbers of mothers into the work force. A recent study by the House Select Committee on Children, Youth, and Families reveals 35 percent more two-parent families would live below the poverty line if the mothers were not employed. In addition, the divorce rate has doubled over the past twenty years, from 10.5 percent in 1965 to 21 percent in 1986. The reality today is that two-thirds of mothers in the work force are either the sole support of their families or have husbands who earn less than $15,000 per year. Most mothers are in the labor force out of economic necessity.

The increased labor force participation rates of mothers, together with the increasing number of children, is resulting in a steady rise in the numbers of children with employed mothers. Today, fewer than one in ten families represent the "traditional" family structure of the mother at home with the children while the father works. The number of preschool children with mothers in the labor force has grown by 75 percent over the past 15 years (from 6 million in 1970 to 10.5 million in 1985). In addition, the number of school-age children (age 6–17) with mothers in the labor force has increased 22 percent over the same period (from 21 million to almost 26 million). Currently, over half of all mothers with infants under one year of age work outside the home. In fact, the most rapid growth in the numbers of children with mothers in the work force is occurring among infants and toddlers.

The most recent projections show that these numbers will continue to rise over the next decade, as trends in both the numbers of children and labor force participation rates of their mothers reinforce each other. By 1995, two-thirds of all preschool children and four out of five school-age children will have mothers in the labor force. The manner in which these children are cared for will be a critical factor in their safe and healthy development. For their parents, finding decent quality child care that is affordable is crucial to their successful and productive employment and their families' economic security.

THE AVAILABILITY OF CHILD CARE

Recent studies indicate that the national supply of child care services is simply inadequate to meet the needs of these children and their working mothers. In 1986, the National Association for the Education of Young Children (NAEYC) surveyed licensed child care programs and found almost 40,000 in operation, with a total capacity of about 2.1 million children. The states' licensing offices reported to NAEYC that approximately 105,000 licensed family day care homes were in operation, with a total capacity of about 435,000 children. Thus, these licensed arrangements could accommodate just over 2.5 million children in 1986, only 24 percent of all preschool children with working mothers.

The lack of adequate child care stretches nationwide. In Des Moines, Iowa, existing child care facilities have space for only 12,000 of the 47,000 children who need care. In Seattle, Washington, the number of children requiring child care is near 23,000, while licensed child care facilities can accommodate only 8,000.

Some employers have started to respond to the child care needs of their employees because they understand the savings in terms of reduced absenteeism and enhanced productivity. However, by early 1988, only an estimated 3,300 of over 6 million employers provided some form of child care support. Almost half of this support is in the form of dependent care accounts, which earmark pre-tax earnings to be spent on dependent care. Less than a quarter of these employers actually provide on-site child care services. In a recent needs assessment conducted by Resources for Child Care Management and Bank Street College, 931 employees from three New Jersey companies with children 12 and under were surveyed on their child care needs. Forty-six percent said that locating child care was a major problem. The availability of decent care was also of major concern. Forty-eight percent said that having an adequate selection of child care was a major problem. Even in the hospital industry, which boasts the largest proportion of employers providing on-site child care, need far outpaces supply. In a 1987 survey of 129 hospitals conducted by the National Association of Hospital-Affiliated Child Care Programs, on-site centers reported serving only 12,336 children while maintaining a waiting list of almost 8,000 children.

This gap between supply and demand becomes acute for infant care. In Washtenaw County, Michigan, for example, demand for infant care exceeds supply by three to one. The 1987 survey of hospitals revealed two out of three infants had to be turned away due to lack of space. Parents of infants who need to work are discovering the difficulty in finding infant care. A September, 1987 article in Philadelphia magazine described this often absurd scramble for care:

> This month, a four-month-old infant girl is starting at the Wooly Bear Day Care School in Lansdale, Pennsylvania. Her father first approached the center about her enrollment several months before she was conceived.

The availability of school-age child care is also in short supply. School-age children are in school for most of the hours the parent(s) work. However, school-age children often require care for a few hours before and after school until the parent(s) return from work, care that is often unavailable. The Census Bureau estimated that, in 1985, over 2 million "latchkey" children spent some part of the day alone while their parent(s) worked. In a recent Harris poll, 51 percent of teachers reported that children's being left alone after school is the most critical factor undermining their school performance. In addition, according to a recent report by the Alan Guttmacher Institute, teen pregnancies often result when young people are left at home unsupervised during after-school hours.

During a hearing by the Subcommittee on Children, Family, Drugs, and Alcoholism, held on March 15, 1988, Diane Adams of Community Coordinated Child Care in Madison, Wisconsin, told a moving story. One parent served by her resource and referral agency, a single father to two, ages 5 and 7, had difficulty maintaining reliable arrangements for his children before and after school and during summer vacation. While he was eligible for a Social Services Block Grant (Title XX) child care program, he remained on the waiting list for 18 months until he became approved for funding. Using a local resource and referral service, he located a family day care provider. Two weeks later, the provider went on vacation and another registered family day care home was located. Within two months, he had to make yet another arrangement when the second provider became ill. This father became painfully aware that decent care, even once located, is often difficult to maintain.

Furthermore, the supply of child care for children with special needs is insufficient to meet demand. Parents of children with handicapping conditions or disabilities experience continual stress due to the lack of reliable, consistent arrangements for their children with special needs. A parent from Baltimore, Mr. Russ Young, testified before the Subcommittee on March 15, 1988. He spoke of the difficulty he faced in finding care for his three-year-old son with epilepsy. Mr. Young was lucky enough to find a family day care provider whose sister had epilepsy and who therefore understood how to handle Andy's periodic seizures. Unfortunately, the extra care Andy required made the provider feel that she was neglecting the other children, and therefore, had to stop caring for him. The subsequent exhaustive search for care resulted in Mr. Young's hiring an in-home provider at almost three times the cost of family day care. As Mr. Young said:

> I think our story illustrates in a particular way, the great need for the ABC bill: there is a terrible dearth of adequate day care options for America's children; but there is a special way in which that stark reality impacts on children with disabilities. With extensive waiting lists, providers are very selective about the children who receive their services and children with disabilities are the first and most easily excluded.

Part of the child care supply problem relates to the low salaries received by providers. Child care providers are the second lowest-paid occupation in the country—second only to the clergy. The Current Population Survey reveals the average child care worker in schools and centers earns about $9,500 per year, while private providers earn about $4,700. Seventy percent of all child care workers have annual earnings below the poverty line. Over 40 percent of all full-time child care workers and 75 percent of part-time child care workers earn less than $5.00 per hour. These low wages are not a reflection of the lack of education; the average child care worker has over two years of college education. Moreover, only one-half of all child care workers receive health benefits, and one-third do not receive overtime pay. Child care workers' acceptance of such low wages and benefits is truly the largest child care subsidy in the country.

As a result, the turnover rate for all child care center workers nationwide is 42 percent (twice the national average for all other occupations) and 67 percent in family day care homes. The Child Care Employee Project (CCEP) estimates turnover to be as high as 60 percent in some communities. Moreover, once a caretaker leaves a center, positions are often left unfilled. CCEP estimates a 27 vacancy rate in some communities, with the average length of vacancy lasting from 4 to 18 months. An improvement in provider salaries and benefits is the first step toward attracting and retaining qualified child care workers.

THE AFFORDABILITY OF CHILD CARE

The typical cost of full-time child care in this nation—across all arrangements—is $3,000 per year for one child. The cost often runs even higher in metropolitan areas and in all areas for infant care. While this is a large expense even for many dual-earner, moderate-income families with children, low-income families are especially burdened by the lack of affordable care. Dual-earner parents earning minimum wage and working fulltime through the year gross less than $12,000 in family earnings annually and are hard-pressed when they must spend over 25 percent of this income on child care for one child alone. If they have two children, child care could cost such families 50 percent of gross income.

There seems to be an unspoken assumption that low-income families prefer to have relatives or neighbors—at low or no cost—watch their children. In reality, this more frequent use of informal care probably relates more to low-income parents' lack of child care options for economic reasons than parental preference for informal care. Even given these informal care options, studies indicate that lack of affordable child care is the primary barrier faced by low-income families seeking employment. If informal care were accessible to a large proportion of low-income families, studies would not consistently point to the lack of affordable child care as a major barrier for families of this kind. Furthermore, evidence shows a direct link between the income of the parent and preschool program enrollment. Parents who can afford formal programs, in fact, place their children in them. In 1985, 67 percent of four-year-olds and 54 percent of three-year-olds whose families earned $35,000 or more were enrolled in preschool programs. By contrast, children from very low-income families were one-half as likely to have this opportunity. Less than 33 percent of four-year-olds and 17 percent of three-year-olds whose families had an annual income of less than $10,000 a year were enrolled in such programs.

Parents are held hostage by their ability to pay for child care. The widely-publicized example of the 47 children found recently in a basement of an unlicensed Waukegan, Illinois, family day care home illustrates this problem. Parents were paying $25 per week for this care because they couldn't afford the average cost of care in their area of $75 per week. Fortunately, this situation was discovered before a tragedy occurred. Ms. Linda Grant from Dade County, Florida was not as lucky. In a widely-publicized incident in 1986, Ms. Grants' sons, Anthony, 3, and Maurice, 4, were left home alone one day when her informal child care arrangements fell through. They climbed into a clothes dryer, shut the door, tumbled and burned to death. Their names were on a waiting list of over 6,000 children in Dade County whose parents qualify for and have requested government-subsidized day care so the parents can work, attend training or school.

Ms. Michaelene Michelle, a mother of two from Lansing, Michigan, testified before the Subcommittee on June 28, 1988. She and her husband both need to work for financial reasons, and she shared with the Subcommittee the difficulty she had finding affordable child care that was not detrimental to her two sons, age 2 years and 13 months. After their first family day care provider hit the older boy, Ms. Michelle started an extensive search using her local resource and referral agency, finally enrolling her older boy in a child care center. Ms. Michelle laments:

> Unfortunately, we cannot afford to put our younger son there, too, so he stays at home with this grandfather.

Families that use informal care are those that have that option available to them, but who might otherwise choose a formal, licensed arrangement, if they could afford it. A child's well-being should not be jeopardized simply because his or her parent cannot afford decent care.

THE QUALITY OF CHILD CARE

For too many parents, the only available care they can afford is of questionable quality. During the Subcommittee's three hearings on child care, several parents testified about their personal experiences with unlicensed, poorly-trained child care providers. Mr. and Mrs. Michael Brooks told how their eleven-month-old son was fatally injured in an unlicensed family day care home when the provider unintentionally struck the child's skull as he was crawling away from the changing table. This provider was not a stranger to the Brooks family; she was a friend who had a two-year-old child of her own. This example, like many others, illustrates how an unlicensed provider with good intentions can cause irreparable harm.

There are many determinants of safe, quality child care. Some—like provider warmth and commitment—cannot be predicted or easily measured. There are many measurable determinants, however, that research has shown to directly affect the safety and quality of care and that therefore should be required of all child care providers and child care environments. These include staff-child ratios, group sizes, provider qualifications, health and safety requirements, and parental involvement and access.

There exists a remarkable degree of consensus among national experts in child care and child development about what these determinants—or standards—of quality are and what the requirements within each category should be. For example, the National Association for the Education of Young Children (NAEYC) and the Child Welfare League of America (CWLA), two preeminent child development organizations, have established model standards of quality that are remarkably similar both in scope and content. The Department of Defense has promulgated mandatory standards for child care services on military installations which are very similar to those recommended by these national professional organizations.

While child care experts clearly agree on the key indicators of quality for child care services, the nation's system of state-promulgated regulations is a confused patchwork of divergent standards in many of these categories. Some states have no requirements in one or more of these important categories of standards, while other state standards are set well below those recommended by the national child care experts. S. 1885 would build on the experience and expertise of the professional child development experts through the establishment of a National Advisory Committee on Child Care Standards. The Committee would establish minimum national standards for child care providers receiving public funds in the key categories of quality identified by these organizations. The intent of the legislation is to provide a minimum floor of health and safety for as many children as possible, regardless of their geographic location.

Child care centers

The National State of Child Care Regulation, 1986, by Gwen Morgan is a composite look at the current state child care standards. With respect to center-based care, forty-nine states and the District of Columbia regulate centers' staff-child ratios, but the ratios for infants range from 1:3 in three states to 1:12 in Idaho.

The CWLA believes 1:3 should be the minimum ratio allowed for infants to ensure safe, quality care. NAEYC, the Child Care Food Program (CCFP) (which provides subsidies to center and family day care providers serving meals to children) and Department of Defense (DOD) have concluded that 1:4 should be the minimum. Yet, only 28 states have ratios of 1:5 or better for infants and young toddlers up to age 18 months. Twelve states have ratios of 1:7 or lower for this age group.

Only half the states regulate maximum group sizes for different-age children in child care centers, while the current group size limits among those states that do regulate for infants ranges from 4 to 20. Again, NAEYC and DOD have determined that no more than eight infants (with two caregivers) should be in the same group. This number of infants should be further limited to two if there are children of different ages in the same group.

The professional organizations and the military concur that some basic knowledge of child development is crucial for child care providers. The DOD requires its child care center caregivers to have 40 hours of training before they are qualified, with each branch of service requiring between 24 and 34 hours of on-going training each year. Yet, twenty-two states require no training for teachers before they go to work in child care centers. Twenty-five states require no on-going training for center caregivers, and 7 states have no training requirements of any kind.

Parental involvement and access is another important indicator of quality in child care center programs. Yet only twenty-two states have regulations guaranteeing unlimited parental access to child care centers.

All centers have some health and safety requirements, though they vary widely among states. For instance, 3 states do not require immunizations of preschool children in centers. At least seven states do not require providers to wash their hands after changing a diaper, even though handwashing is the single most effective method for preventing the spread of diseases. Ten states do not require health training of center staff. By contrast, each branch of the military requires training in first aid and other emergency procedures of all child care providers.

Family day care

Family day care can be a warm, nurturing environment for young children in need of child care. And like center care, family day care situations must meet some minimum level of health and safety for children and caregivers. This assurance is especially needed as family day care arrangements become an increasingly important option for parents. The use of family day care arrangements has increased 50 percent since 1965 and is likely to continue, especially for infants and toddlers.

As with center-based services, there exists a remarkable degree of consensus among child care experts concerning the key indicators of quality for family providers. Testimony before the Subcommittee indicates that the family day care profession itself supports the establishment and enforcement of minimum health and safety standards. In testimony presented to the Subcommittee on June 28, 1988, Sandra Gellert, President of the National Family Day Care Association, stated:

> Defining uniform standards in (these) areas is essential to protect our children and to help assure children's rights to minimal acceptable levels of day care. Family day care providers clearly want that because having clear-cut standards makes the family day care profession more acceptable and recognized.

Unfortunately, many states lag far behind. Currently, 46 states have a mandatory system of regulation for family day care homes. However, 37 states do not regulate some or all of their family day care providers because of the different ways in which the term "family day care" is defined and the subsequent regulation of only those of certain sizes. Forty-two states require no preservice training for family day care providers. Only 13 states have a required preservice training requirement, and only nine states require ongoing training. The DOD requires 24 hours of training for its family day care providers on military installations.

The National Family Day Care Association (NFDCA) recommends a maximum group size in family day care of no more than six children. The federal Child Care Food Program (CCFP) requires a maximum group size of six for providers receiving funds under the program and which are not regulated by their states. The DOD standards for child care on military installations also require a maximum group size in family day care homes of no more than six. Despite this consensus, 19 states allow more than six children in a family day care home. Furthermore, while the CCFP requires no more than three infants and the DOD requires no more than two infants for their family day care providers, only 33 states limit the number of infants in a home to three and only 22 states limit the number to two.

There are many examples of tragedies waiting to happen where unlicensed and poorly-trained family day care providers care for too many children at one time or care for them in unsafe settings. For several days in 1987, the nation followed the saga of Jessica McClure, who fell down a well in Midland, Texas, and was trapped for over two days. What few people knew at the time was that Jessica was being cared for in an unlicensed family day care home in which one adult was watching 8 other children. In July, 1988, two infants drowned in a bathtub in a family day care home in Battle Creek, Michigan, in which one unlicensed provider was caring for 13 children.

Many states also lag far behind acceptable standards of basic health and safety for children in family day care situations. Ten states do not have an immunization requirement for children enrolled in family day care homes. Moreover, thirty-five states do not guarantee parents unlimited parental access to family day care homes, another key safeguard of the quality and safety of care.

During the Subcommittee's hearings on child care in 1987 and 1988, extensive testimony was presented on the critical need for an improvement in the quality and safety of child care throughout the nation. Quality is not an issue which affects the physical and mental well-being of our children alone. It is also critical to the peace of mind and productivity of parents in the workforce and to the cost and availability of child care throughout the nation. Mr. Harry Freeman, Executive Vice President of American Express Company, testified before the Subcommittee on March 15, 1988. He said:

> [child care is] a national issue that connects directly to the broad challenge that's been on many minds—that of "national competitiveness". . . If we are fully to restore this nation's economic vigor, then we must ensure that jobholding parents throughout the country go to work knowing their children are well cared for . . . [U]nless we get greater consistency of [health and safety] standards nationwide, we will inhibit the mobility we need to adapt to the structural economic changes that are apparent in every adanced industrialized nation.

A 1986 Fortune magazine survey of 400 parents of children under 12 echoes this statement, concluding that dissatisfaction with child care in the most reliable predictor of workers' absenteesism and unporductive work time. Businesses can benefit from providing some support for their employees' child care needs. Employers are more likely to invest in child care if there are consistent, minimum health and safety standards that they feel confident will ensure the equality of child care. Like the Federal goverment, the private sector cannot afford to support or condone potentially dangerous care.

Hearing testimony on the need for national minimum health and safety standards reflects the views of the nation at large. This issue was addressed in a national poll of 901 registered voters, both Democrats and Republicans, in June of 1988, conducted by Marttila and Kiley, Inc. Seventy-five percent of those responding believe the Federal government should establish basic minimum health and safety standards, including 83 percent of working mothers and 74 percent of voters with no children.

There is also evidence that improvements in the quality of child care in America can have a positive impact on the cost and supply of such services by reducing the cost and increasing the supply of liability insurance for providers. The current "crisis" in child care liability insurance stemmed, in part, from a downturn in the insurance cycle, and in part from increasing reports of child sexual abuse and accidents in child care centers duing the early 1980s. Child care was perceived as a risky business. Consequently, insurance policies were cancelled and insurance permiums on remaining policies increased. The establishment of predictable and measurable standards of quality for child care programs would help insurance carriers assign risk with greater confidence and may held to make insurance more accessible at a lower price to a broader range of child care providers.

CONCLUSION

The demographic revolution in the American workforce is having a profound effect on the lives of American families. These changes call for an active Federal role in child care. Unlike the temporary circumstances leading to the Lanham Act in 1943, today's increase in female labor force participation rates, and the increase in the number of children with employed mothers will continue well into the future. The magnitude and the complexity of the child care crisis call for policy measures that are qually comprehensive and long-term.

It is the view of the Committee that the Federal government's most crucial role is to strengthen the child care infrastructure in America to improve the quality of services and make them more available and more affordable. The Act for Better Child Care Services accomplishes this goal through a combination of direct assistance to parents, standards and training to improve quality, and programs to increase the supply of various types of child care options. Within the framework of this legislation, the states are provided with funding and flexibility to enable them to make these necessary improvements. For parents who cannot afford minimally safe child care options, parental choice is just a myth. The direct financial assistance to low-income and working families will help ensure access to the child care services these families require.

IV. History of the Legislation

S. 1885, a bill to provide for a federal program for the improvement of child care, and for other purposes, was introduced by Senator Dodd on November 19, 1987, and was referred to the Senate Committee on Labor and Human Resources. The bill was referred by the Chairman to the Subcommittee on Children, Family, Drugs and Alcoholism. Hearings on the bill were held by the Subcommittee on March 15, 1988, and on June 28, 1988. In addition, a background hearing on child care in general was held by the Subcommittee on June 11, 1987.

On June 8, 1988, Senator Dodd submitted for the record alternative language for sections 19 and 20 of the bill as introduced (Prohibition on Expenditure of Funds for Certain Purposes and Nondiscrimination, respectively). On July 20, 1988, the Chairman of the Committee on Labor and Human Resources, Senator Kennedy, exercised his authority under Rule 10 of the Committee Rules of Procedure to withdraw S. 1885 from the Subcommittee on Children, Family, Drugs and Alcoholism and place the measure before the full Committee for further disposition. Subsequently, an amendment in the nature of a substitute was unanimously approved on a voice vote by the Committee on Labor and Human Resources on July 27, 1988. The Committee then ordered reported S. 1885 as amended on a unanimous voice vote.

V. Hearings

JUNE 11, 1987

Prior to introduction of S. 1885, a general background hearing on child care was held by the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources, on June 11, 1987. The following individuals provided testimony:

Marva Preston, Detective, City of Miami Police Department, Miami, Florida;

Judy Griesse and Alyce Chessnoe, Family Day Care Providers, Fairfax County, Virginia;

Gary Goldberg, Executive Producer of "Family Ties," UBU Productions, Los Angeles, California;

Dr. Ed Zigler, Director, Yale Bush Center on Child Development and Social Policy, New Haven, Connecticut;

Toni Porter, Director of Research and Program Development, Childcare, Inc., New York, New York;

Nancy Travis, Director of the Southern States Program, Save the Children, Atlanta, Georgia;

Caro Pemberton, Childcare Employee Project, Oakland, California;

Helen Blank, Director of Child Care, Children's Defense Fund, Washington, D.C.;

Doug Baird, Chair of Child Care Task Force, Child Welfare League and Executive Director, Associated Day Care Services of Metropolitan Boston, Boston, Massachusetts;

Arnold Fege, Director of the Office of Governmental Relations, National PTA, Washington, D.C.;

Wendy Sherman, Special Secretary for Children and Youth, State of Maryland, Baltimore, Maryland.

MARCH 15, 1988

A hearing on S. 1885 was held by the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources, on March 15, 1988. The following individuals provided testimony:

Jimmy White, Parent, Lexington, Kentucky;

Joy Majied, Parent, Washington, D.C.;

Debra and Michale Brooks, Parents, Gunnison, Colorado;

Fran Haynes, Parent, New York, New York;

Marlene Johnson, Lieutenant Governor, State of Minnesota;

Mayor Carrie Saxon Perry, Hartford, Connecticut, representing the United States Conference of Mayors;

Harry L. Freeman, American Express, New York, New York;

Sandra Salyer, Vice President, Mervyn's of Dayton Hudson Corporation, Hayward, California;

Cheryl Smith, Corporate Kids, Olathe, Kansas;

Margaret Fitzgerald, Vice President of Hill, Holliday, Connors and Cosmopulos, Boston, Massachusetts;

Dr. Dana Friedman, Senior Research Associate, Conference Board, New York, New York;

Dr. Diana Pearce, Institute for Women's Policy Research. Washington, D.C.;

Ellen Galinsky, Project Director of Work and Family Life Studies, Bank Street College, New York, New York;

William Bentley Ball, Association of Christian Schools International, Harrisburg, Pennsylvania;

Lynn Lyss, Vice President, National Council of Jewish Women, St. Louis, Missouri.

JUNE 28, 1988

A hearing on S. 1885 was held by the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources, on June 28, 1988. The following individuals provided testimony:

Thomas H. Kean, Governor, State of New Jersey;
Bill Clinton, Governor, State of Arkansas;
Thomas J. Downey, Member of Congress, State of New York;
Carolyn Henricques, Parent, New York, New York;
Philip W. Johnston, Secretary, Executive Office of Human Services, Commonwealth of Massachusetts;
Myra Hogan, Parent, Greenfield, Massachusetts;
Dr. Deborah A. Phillips, Assistant Professor of Psychology, University of Virginia, Charlottesville, Virginia;
Michaelene Michaels, Parent, Lansing, Michigan;
Roger D. Hall, President, Corporate Realty International, Belair, Texas;
Sandy Gellert, President, National Association for Family Day Care, Clifton Heights, Pennsylvania;
Elliot Ginsberg, Commissioner, Connecticut Department of Social Services, Hartford, Connecticut;
Robert Rector, Policy Analyst, Heritage Foundation, Washington, D.C.;
William Mattox, Jr., Director of Public Policy, Family Research Council of America, Inc., Washington, D.C.

VI. COMMITTEE VIEWS

STATE ALLOTMENT FORMULA

Section 5 requires the Secretary to reserve an amount not to exceed one half of 1 percent of appropriations for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau. The Secretary will also reserve an amount, not less than 1.5 percent and not more than 3 percent of total appropriations, for Indian children. The Secretary may, using funds reserved under the Act for Indian children, enter into a contract with, or make a grant [illegible] an Indian tribe or tribal organization for a period of 3 years, to plan and carry out programs and activities that are consistent with the Act. In the case of an Indian tribe in states other than Oklahoma, Alaska, and California, these programs will be carried out on the Indian reservation for the benefit of Indian children.

The remainder of funds are allotted to the states through a formula based on three factors: (1) the ratio of the number of children in the state who are less than 5 years of age to the number of children in all the states who are less than 5 years of age; (2) the ratio of the number of children in the state who are receiving free or reduced price lunches under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the states who are receiving free or reduced price lunches under the program; and (3) an "allotment percentage" determined by dividing the national per capita income by the per capita income of the State.

The Committee has adopted this formula because it takes into account both a state's ability to meet its child care needs relative to the other states, as well as the extent of a state's child care needs relative to the other states. The "young child factor" in the formula is used to determine the relative need in the state for child care for pre-school age children. The "school lunch factor" is used as an indicator of child poverty in a state, as well as the need for child care services for school age children, relative to the other states. High young child and school lunch factors will have a positive impact on a state's allotment; states with a relatively large proportion of children in need of child care and of children in poverty will receive a larger share of Federal funds under the Act.

The state allotment formula also factors in a state's per capita income relative to that of the other states, to determine the relative ability of parents in the state to meet their child care needs and the relative ability of the state to raise tax revenues to fund child care programs. A high "allotment percentage" (the national per capita income divided by the state's per capita income) will have a positive effect on the amount of a state's allotment while a low allotment percentage will mean a relatively smaller share of funds provided under the Act. As in the federal revenue sharing program, a weight is placed on the allotment pecentage in order to ensure that a state's share of funds is not based too heavily on the state's tax base. The weighting limitation provides that an allotment percentage greater than 1.2 be considered 1.2 and those below .8 be considered .8. In this way, the state's per capita income is balanced by the state's need for child care services and number of children in poverty, all relative to income and need factors for the other states.

The following description illustrates how the state allotment formula would allocate assistance under the Act. The state of Connecticut, for example, has a per capita income of $40,677 for a family of four; the national per capita income is $32,777 for a family of the same size. Thus, the "allotment percentage" for Connecticut is .8 ($32,777 divided by $40,677). Connecticut has 1.10 pecent of the nation's children under age 5, and .75 percent of the nation's children receiving school lunch subsidies.

Half of the Act's state allotment formula is based on the product of the state's share of the nation's children under age 5 and the state's allotment percentage. For Connecticut, this would be .88 percent (1.10 [the "young child factor"] × .8 [the allotment percentage]). The other half of the formula is based on the product of the nation's share of children receiving school lunch subsidies and the state's allotment percentage. For Connecticut, this would be .6 (.75 [the "school lunch factor"] × .8 [the allotment percentage]). Thus, Connecticut's share of funds under the Act is the average of the two components of the formula, .88 and .6, or .74 percent of the total national allotment.

Section 5 also permits the Secretary to reallot any portion of a state's allotment that he or she determines is not required to carry out the state plan approved under section 7(d) to other states in proportion to the original allotments to the other states.

STATE LEAD AGENCY

Section 6 requires the chief executive officer of each state to designate a lead agency to administer funds received under the Act and to coordinate ABC-funded services with the services of other state and local agencies that provide services to children. The Committee intends for states to have the flexibility to determine which agency is most appropriate to administer the funds and services provided for under the Act.

The lead agency, in consultation with the state advisory committee on child care established under section 11, will develop the 5-year state plan for submission to the Secretary in order for the state to be eligible for funds under the Act. The lead agency will also have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the state to carry out the purposes of the Act. The lead agency's main responsibilities are to assess child care needs and resources in the state and the effectiveness of existing child care services and services for which assistance is provided under the Act in meeting such needs. Additional duties include the development of a plan designed to meet the need for child care services in the state for eligible children, including infants, preschool children, and school-age children, with special attention to the needs of low-income children, migrant children, children with handicapping conditions, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency. The lead agency will also hold annual hearings in each region of the state, in order to provide an opportunity for public comment on the provision of child care services in the state under the state plan. The lead agency is required to make periodic reports to the Secretary, to coordinate the provision of services under the Act with other children's programs and services funded by federal, state, or local governments. Finally, the lead agency will designate resources and referral programs for particular geographical areas in the state to ensure that all families will have help in finding child care services, regardless of their geographic location in the state.

STATE PLAN

Section 7 outlines the components of the 5-year plan which states are required to submit to the Secretary in order to be eligible for assistance under the Act. The purpose of the plan is to establish long-range policies and procedures which the states will use to develop a comprehensive, quality child care infrastructure in each state. The state must ensure that providers receiving assistance under the Act comply with all state and local licensing requirements and, within five years after they are established by the Secretary, with the minimum national health and safety standards provided for in section 17. In addition, the plan must provide that funds will be distributed to all types of licensed child care providers in the state and that funds will be distributed equitably to both urban and rural areas. The state must also ensure that child care services are available to children with unique needs, including those with handicapping conditions and those whose parents work nontraditional hours. The state plan must also provide for the establishment of sliding fee scales for eligible children and for procedures designed to ensure parental involvement in the planning and evaluation of child care services in the state.

As part of the planning requirement, the state must ensure that funds received under the Act will be used to supplement, not to supplant, the amount of Federal, state, and local funds expended for the support of child care services. However, states may use existing state expenditures in support of child care services to satisfy the 20 percent state matching requirement included in section 16. The Committee intends for this provision to encourage states to continue to invest state and local funds in child care services, without imposing a penalty on those states that have already recognized the need for a state commitment to child care.

DISTRIBUTION OF ASSISTANCE UNDER THE STATE PLAN

The 5-year plan must also ensure that the state will use at least 75 percent of the funds received under the Act to provide direct assistance to families to help pay for child care services. The state may use up to 15 percent of the funds for activities designed to increase the quality and availability of child care services. These activities include the resource and referral programs established under section 12, the monitoring and enforcement of state licensing requirements, training and technical assistance in accordance with the requirements of section 13, procedures to ensure that adequate salaries are paid to child care personnel, and grants and low interest loans to child care providers to establish new child care programs and to help them meet federal and state health and safety standards. Among these activities, the state must give priority to the licensing and training activities and need only make "reasonable progress" in the other quality/availability areas. Finally, the state may use up to 10 percent of its allotment each year for state administration activities.

DIRECT ASSISTANCE FOR CHILD CARE SERVICES

Section 7(c)(4) of the Act requires states to use at least 75 percent of their allotment each fiscal year to provide assistance directly to low-income, and working families to help them pay for child care services. Priority must be given to families of very low income and assistance must be provided on a sliding fee scale basis that ensures that families' contribution to their child care costs increases as their incomes rise. The Committee believes that the lack of affordable child care for low-income families and the long waiting lists for such care throughout the nation make it imperative that Congress reserves a significant portion of funds to help families pay for services. Without direct assistance to pay for safe child care, low-income families have no real choice with respect to child care options. The Committee also expects this direct assistance will help to increase the supply of child care throughout the nation because many low-income families now on waiting lists for a limited number of publicly subsidized slots will have the resources to pay market rates for care.

Beyond the requirement that states give priority to low income families, the Committee has included other provisions to ensure that assistance flows to those most in need. Providers receiving ABC funds must provide services to children of families with very low incomes and states must give priority for assistance to providers which themselves give priority to low-income children. In addition, states must use at least 10 percent of the 75 percent of funds reserved for direct assistance to expand from part-day to full-day low income programs like state-subsidized preschool, Head Start, Chapter I preschool, and preschool for handicapped children. The majority of these high quality programs currently serve low-income families only on a part-day basis, forcing working parents to shift their young children among several caregivers in a single day.

By providing states with the flexibility to allocate direct assistance through different funding mechanisms, the Committee believes low-income families will have a broader range of child care options. These options are currently too often limited to a few types of publicly subsidized programs. States may provide assistance to parents through contracts with or grants to eligible child care providers, through grants to units of general purpose local government that agree to enter into contracts with eligible child care providers, or through a system of certificates that are distributed directly to parents. This range of options will enable parents to choose child care services which best meet their families' needs. In addition, states will be able to build on their existing subsidized child care systems which currently use a mix of contracts, grants and certificates. The Committee believes that if direct assistance under the Act were limited to a particular type of funding mechanism (i.e. certificates), state flexibility and parental choice would suffer. The Act permits states to use only certificates if they so choose, a decision which the Committee believes is best left up to the states.

The Committee has also sought to ensure that parents have a wide range of choices in selecting child care settings that best meet their families' needs. For this reason, all types of licensed providers are eligible for assistance under the Act including center-based care, family day care, and group home care. Eligible providers include non-profit and for-profit organizations, schools, community-based organizations, units of general purpose local government, employers, and churches and synagogues that offer nonsectarian services. The Committee wishes to emphasize that the Act is not intended in any way to favor or encourage one form of licensed child care over another.

In keeping with the Committee's desire to enhance parental choice, especially for low-income families, a provision has been included to ensure that providers serving children eligible for assistance under the Act receive adequate reimbursements for their services. As part of the state planning requirement, states must ensure that child care services funded under the Act are reimbursed at no less than the fair market rate for such services in each geographical area in the state. Currently, states may limit reimbursements for publicly funded care to $6 per day for child care services that may actually cost $10 per day. This has made child care providers reluctant to serve low-income children because they must make a financial sacrifice if they accept public funds. The Committee believes the Act's "market rate of care" requirement will ensure that families receiving assistance under the Act are not subject to discrimination in admissions by child care providers. In this connection, the Committee also believes it is important to recognize that child care services for certain types of children are more costly than for others. Thus, the state plan must also ensure that higher reimbursements are available for the care of infants, for programs which provide comprehensive child care and family support services to adolescent parents, and for the care of handicapped children.

STATE ENFORCEMENT OF LICENSING AND REGULATORY REQUIREMENTS

The Committee believes that enforcement of child care licensing and regulatory requirements should continue to be a state responsibility. The Committee also believes that states must actually enforce these requirements if federal, state, and local health and safety standards are to have their intended effect. Unfortunately, the rapid growth of child care programs in the recent past has been accompanied by a reduction in the number of qualified staff available to license and monitor child care programs.

For this reason, states are authorized to allocate funds under the Act to implement several provisions designed to strengthen their licensing and enforcement operations as well as parents' ability to monitor child care programs. Within five years after the date of enactment of the Act, the states must have an adequate number of trained personnel to perform inspections of licensed and regulated facilities. In order to ensure that proper inspection standards are applied, the inspectors must have responsibility exclusively for children's services. There will be not less than one unannounced inspection per year of each center and each group home in the state and not less than 20 percent of the licensed and regulated family day care providers in the state will be inspected each year. Inspections must be conducted during the normal hours of operation for family day care homes in the state.

In order to enhance parental involvement in program monitoring, the Act requires that licensed and regulated child care providers make written policies and program goals available to parents and that parents be guaranteed unlimited access to child care programs. The Act also requires states to implement procedures to address parental complaints and to prohibit operators of child care facilities from taking action against employees who report licensing violations. States must implement a consumer education program to inform parents and the general public about licensing requirements and complaint procedures and require child care providers to post the telephone number of the agency that parents may call to report licensing violations. Finally, the states must maintain a record of parental complaints and make information available to the public concerning substantiated parental complaints.

RESOURCE AND REFERRAL ORGANIZATIONS

The Committee notes that the search for quality and affordable child care is a long and difficult process for many parents. In many communities, parents must rely on the yellow pages of the telephone book or community bulletin boards for help in finding child care services. Comprehensive resource and referral programs can facilitate this process by linking parents with appropriate child care providers and by offering other valuable services to a community's child care system. While a growing number of employers now pay for resource and referral services for their employees, the vast majority of employers provide no assistance for this purpose. The Committee believes that a stable resource and referral system that is available to all parents in a community requires a public funding base. Unfortunately, only 15 states provide any state funding for resource and referral. The existing federal program, the State Dependent Care Development Grants Act, is not child care specific. Moreover, this program only covers initial program start-up costs, and appropriations for the program have been severely limited in the recent past.

Section 12 of the Act requires the lead agency in each state to designate resource and referral organizations for particular geographical areas of the state. This is to ensure that resource and referral services are available to all parents in a state, regardless of whether they live in urban or rural areas. Funds for these designated organizations are included in the 15 percent of funds set aside in the Act for activities related to quality and availability. Operated by public or non-profit community-based existing child care services, provide parents with help in locating services appropriate to their families' needs, and provide or arrange for information, training and technical assistance to child care providers in the community. These organizations will also gather and update specific information on all types of eligible child care providers (including family day care providers and those who provide services to handicapped children), the costs of available child care programs, the availability of child care subsidies, the locations in which child care services are provided, transportation to such locations, and the hours during which such services are available.

TRAINING AND TECHNICAL ASSISTANCE

The Committee notes that provider training has been identified by child development experts as a key factor in the quality of child care services. Research indicates that well-trained caregivers in both centers and family day care homes provide children with more social stimulation and responsiveness than do other caregivers. Pre- and inservice training is especially important in areas like first aid and child abuse detection as well as in special practices designed to address the problems of children with special needs. Unfortunately, only 26 states now require continuing training for teachers while they are employed in child care centers. Twenty-two states require no training before teachers begin working in child care settings. Forty-two states require no preservice training for family day care providers.

Not later than 2 years after the date of enactment of the Act, each state receiving funds must ensure that all individuals providing licensed or regulated child care services complete at least 15 hours of training annually in several key areas. The Committee believes this is a modest requirement—1.25 hours of training per month, per provider—especially since states will have two years to implement the requirement. States may allocate funds from the 15 percent set aside for activities related to quality and availability for the training services.

The states will make grants to, or enter into contracts with, public or private non-profit organizations to carry out the actual training services. The training will be in key areas such as the essential components of health and safety, procedures to ensure the optimal development of children, and family support services. Training will also encompass the needs of special populations of children, including those with handicapping conditions, abused and neglected children, migrant children, and children with limited English language proficiency.

In order to increase the number and quality of family day care services, the Committee has also included in the Act special provisions to meet the training needs of these providers. Services for family day care providers will include the recruitment and training of new providers, the establishment of resource centers to make available developmentally appropriate curriculum materials, grants to purchase moderate cost equipment, and a system of substitute caregivers. Family day care providers will also be assured of help in understanding and complying with state and local regulations and tax policies.

MINIMUM NATIONAL HEALTH AND SAFETY STANDARDS

States must ensure that all child care providers receiving assistance under the Act are licensed or regulated under State law and meet any State and local requirements applicable to the type of child care services they provide. Five years after the Secretary establishes the minimum national health and safety standards provided for in section 17, the states must also ensure that all providers receiving assistance under the Act or under other publicly assisted child care programs comply with this limited set of quality standards. These minimum standards are restricted to a small number of key categories and will be different for child care centers, family day care homes, and group home child care settings. Once a state ensures compliance with the minimum federal standards, its state matching requirement will be reduced form 20 to 15 percent of federal funds. From the outset, the Act permits the states to use funds appropriated under the Act to help providers comply with the minimum standards and to ensure enforcement of the standards and state licensing provisions.

The Committee expressed its concern earlier in this report about the nation's lack of rigorous and uniform health and safety standards for child care services. Based on available data and testimony presented to the Committee, the Committee has concluded that there exists a remarkable degree of consensus among national experts in child care and early child development about what these standards of quality are and what the requirements within each category should be. For example, the National Association for the Education of Young Children (NAEYC) and the Child Welfare League of America (CWLA), two preeminent child development organizations, have established model standards of quality that are remarkably similar both in scope and content. The Department of Defense has promulgated mandatory standards for child care services on military installations which are very similar to those recommended by these national professional organizations.

At the same time, while child care experts clearly agree on the key indicators of quality for child care services, the nation's system of state-promulgated regulations is a confused patchwork of divergent standards in many of these categories. Some states have no requirements in one or more of these important categories of standards, while other state standards are set well below those recommended by the national child care experts. The Committee intends for the Act to build on the experience and expertise of the professional child development experts through the establishment of a National Advisory Committee on Child Care Standards. The advisory committee will establish minimum national standards for child care providers receiving public funds, only in those key categories of quality indentified by the experts as most essential. The intent of the Act is to provide a minimum floor of health and safety for as many children as possible, regardless of their geographic location.

When the federal government provides assistance for certain activities, it has a solemn duty to the American people to ensure strict accountability of the funds. In this connection, the Committee takes very seriously its responsibility to ensure that federal funds do not subsidize child care services when safety and quality cannot be determined. Thus, the Committee has invoked the long established precedent in federal law for achieving improvements in program quality by tying federal assistance to recipients' compliance with certain standards. Precedents included the minimum performance standards tied to the Head Start program, the quality of care and staff training standards tied to federal assistance for nursing homes, and the speed limits and minimum drinking age requirements tied to federal highway funds.

Not later than 60 days after the date of enactment of the Act, the Secretary will establish the National Advisory Committee on Child Care Standards. The advisory committee will be composed of 15 members appointed by the President, the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives. Members of the advisory committee will include representatives of different types of child care programs, resource and referral organizations, child care and child development experts, pediatricians, child care employees, those involved in the regulation of child care services, parents, and representatives of state and local governments. The advisory committee will propose the minimum standards to the Secretary not later than 180 days after the appointment of a majority of its members.

Not later than 90 days after receiving the advisory committee's recommendations, the Secretary will publish the proposed minimum standards in the Federal Register for a 60-day public comment period and will distribute the proposed standards to each lead agency and each State subcommittee on licensing for comment. The Secretary will then consider public comments (in consultation with the advisory committee) and issue rules establishing the standards within 120 days of the close of the comment period.

The Committee wishes to emphasize that the National Advisory Committee on Child Care Standards is in no way a regulatory or licensing entity. The advisory committee will propose only the limited number of minimum health and safety standards provided for in the Act and will disband 90 days after the Secretary establishes the standards based on the advisory committee's recommendations. The states will then be responsible for implementing the standards in conjunction with their existing licensing and regulatory authorities.

The Committee believes that the national standards provided for in the Act represent a minimum floor of health and safety for children in child care settings. The standards applicable to child care centers are limited to maximum group size, maximum appropriate staff-child ratios, qualifications and background of child care personnel, health and safety requirements for children and caregivers, and parental involvement. The standards for family day care providers are limited to the maximum number of children and the total number of infants for whom child care services may be provided, the minimum age for caregivers, and health and safety requirements for children and caregivers.

In providing for these standards in the Act, the Committee selected only the most essential indicators of health and safety for different types of child care services. Recommendations concerning the actual content of the standards in most of these areas has been left to the national advisory committee of experts in the field. However, in the cases of maximum group size and staff-child ratios for child care centers, the Act requires that the standards reflect the median standards for all states as of the date of enactment of the Act. This is the same approach utilized by the Department of Defense in setting child care standards for group size and ratios that apply to services provided on military installations.

While the Committee wishes to defer to the national advisory committee of experts on the actual requirements for each standard, certain components may be readily identified. For example, the Committee expects that the health and safety requirements will include immunizations for children and caregivers, handwashing for providers after diapering and before preparing food, health records maintenance for children, adequate fire detection and evacuation procedures, and procedures for evaluating safe playground equipment. In addition, the Committe expects that the qualifications and background of child care personnel will include training and background of child care personnel will include training in first aid and cardiopulmonary resuscitation, minimum preservice training requirements, minimum academic or competency-based credentials, and criminal record tracing procedures.

FEDERAL ADMINISTRATION AND ENFORCEMENT

The Committee wishes to emphasize that the federal government will have an extremely limited role in the administration and enforcement of programs conducted under the Act. Consistent with the state plan provided for in section 7, the states will have broad flexibility to allocate funds for direct payments for child care services as well as for those activities designed to increase the availability and quality of child care services. The states will have exclusive responsibility for all licensing and regulatory activities. The Committee notes that the Congressional Budget Office (CBO) cost estimate for the Act assumes federal administration costs of $8 million per year (including the cost of the National Advisory Committee on Child Care Standards), or approximately three tenths of one percent of the total annual appropriation assumed for the purposes of CBO's estimate.

There is currently no federal office or agency with sole responsibility for federal child care programs. Because the Committee believes it is essential to ensure better coordination of services in this area, it has provided in the Act for the establishment of the position of Administrator of Child Care in the Department of Health and Human Services. The Administrator will coordiante all child care activities of the Department and will coordinate the Department's programs with those of other federal agencies. The Administrator will also collect and publish annually state child care standards, evaluate the activitis conducted with funds provided under the Act, collect and disseminate materials realted to child care training and salaries, and provide technical assistance to the states to help them comply with the requirements of the Act. The Administrator will serve at the pleasure of the Secretary and may be an individual who holds another position in the Department.

The Secretary will review and monitor state compliance with the Act and the state plan approved under section 7. If the Secretary finds, after reasonable notice and opportunity for a hearing, that a state has failed to comply with the requirements of the state plan, the Secretary will notify the state of the finding. No further payments to the state may be made until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected. The Secretary may also impose other appropriate sanctions on the state. The Secretary will establish rules to delineate procedures for receiving, processing, and determining the validity of complaints concerning compliance with the state plan and the requirements of the Act.

LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES

The Committe reported version of the legislation elimiantes the detailed guidance included when the bill was originally introduced. The bill, as amended, simply prohibits the expenditure of funds under the Act for any sectarian purpose or activity, including sectarian worship and instruction. This language, although more general in form, continues to embody the important public policy and constitutional principles relating to the separation of church and state. The Committee's action should not be read as expressing a judgment by the Committee concerning the propriety of the restrictions contained in the original bill, particularly those contained in original Section 19(a)(2). Instead, it expresses the Committee's belief that the issues raised by those provisions need not be resolved through statutory language, but may be addressed in greater detail through the regulatory process. The Committee cautions that this legislation must be implemented to protect against Establishment clause violations, including improper entanglement of church and state.

Section 18(a) prohibits an entity receiving any of the forms of financial assistance provided under this Act (*e.g.*, grants, contracts, loans, or child care certificates) from using such assistance for *any* sectarian purpose or activity, including sectarian worship and instruction. This section is intended to ensure that all child care programs receiving funds under this Act are nonsectarian, whether or not a sectarian institution operates the program.

Under a narrow, technical interpretaiton of this prohibition, one could argue that sectarian activities are permitted in a child care program funded under this Act, so long as no financial assistance under this Act is used for the sectarian activities. The Committee expressly rejects such a narrow, technical interpretation of section 18(a). On the contrary, the Committee adopts a broad interpretation of the prohibition in section 18(a). Under the Committee's broad interpretation, an entity receiving any form of financial assistance under this Act shall not include any sectarian activities, worship or instruction in providing child care services under this Act. Section 18(a) embodies the Committee's intent that *all aspects* of child care services provided by an entity receiving financial assistance under this Act be *completely non-sectarian* in nature and in content. The Committee expresses no view concerning whether the restriction in Section 18(a) is constitutionally required by the Establishment Clause.

NONDISCRIMINATION

Section 19(a) provides that any financial assistance provided under this Act, including a loan, grant, or child care certificate, shall constitute federal financial assistance for purposes of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

Although specific mention of the statutes is not necessary in a funding program to trigger coverage, this section makes explicit that receipt by an entity of any of the forms of financial assistance provided under this Act invokes Title VI, Title IX, Rehabilitation Act, and Age Discrimination Act coverage, even if the financial assistance may not necessarily confer sufficient economic benefit to the entity for other purposes, *see, e.g., Everson* v. *Board of Education,* 330 U.S. 1 (1947), or the child care services would not be considered "educational" in another context. This provision therefore ensures that discrimination on the basis of race, national origin, sex, disability and age is prohibited by entities receiving federal financial assistance under this Act.

Section 19(b) prohibits child care providers that receive federal financial assistance under the Act from discriminating on the basis of religion in deciding which children will be admitted to receive child care services that are purchased with funds authorized by the Act. The Committee is aware that many schools, including religiously affiliated schools, which often give preference in enrollment to members of their religion, now offer child care services for their enrolled students before and after the regular school day. Section 19(b) is not intended to affect the practices of these schools in admitting students to their regular school programs. Similarly, the Committee does not intend section 19(b) to prohibit any schools from giving preference in admission to their before and after school child care programs to children who are enrolled in the regular instructional programs of the schools. This section would also permit religiously affiliated schools to participate without revoking any religious preference for the admission of children to unsubsidized slots.

In addition to admissions decisions, the section 19(b) ban against religious discrimination in the provision of child care services also extends to, but is not limited to fees, level of services, and discipline. While the program language technically provides protection only to that part of a recipient's program which receives assistance under the Act—i.e., only those children funded by the Act—the Committee believes strongly that child care providers receiving such federal financial assistance should make every effort to avoid discriminating in its admissions and employment policies and practices; and it is the hope of the Committee that, in general, all persons requiring child care services will enjoy equality of access to programs funded in whole or part by funds made available under this Act.

The Committee emphasizes its intent to protect the religious liberty of children and families even as it seeks to accommodate the functional requirements of religious institutions. Insofar as programs are permitted to give preference in admissions in favor of members of a particular religion for child care placements not funded under this Act, the Committee intends that such preferences not be implemented in a manner which will undermine the intent of Congress that all funded programs be completely nonsectarian in nature and in content.

Finally, the Act as reported does not include the original bill's prohibition against employment discrimination on the basis of religion. This omission should not be interpreted as an indication that the Committee endorses employment discrimination on the basis of religion, or to confer an exemption not otherwise conferred by Title VII of the Civil Rights Act of 1964 or from any other statute which applies to the child care providers who receive funds under this Act. Similarly, this omission does not discharge the child care provider's responsibility to ensure that the programs funded under this Act are nonsectarian in nature. Nor does it discharge the provider's responsibility to hire qualified personnel.

VOUCHERS

Section 8(a) (1)(c) and (2) of the Act permits states to establish a program that will provide child care assistance to parents through a system of child care certificates for the purchase of child care services from both public and private child care providers. The Committee views the use of such certificates or vouchers, given its context of aid to a substantially non-public system of service-providers, to be significantly different from the use of certificates or vouchers in this nation's predominantly *public* system of elementary and secondary education. The authorization for certificates or vouchers in this Act should not be considered a precedent for certificates or vouchers to be used in the elementary and secondary education context, which the Committee has opposed in the past and continues not to favor. The Committee intends that the certificate system established under this Act will provide no basis for the establishment of a voucher system affecting the nation's existing elementary and secondary education school systems or for changing the way in which federal aid is, or will be, provided to such elementary and secondary education systems in the future.

The Committee also wishes to clarify that it intends to subject federal financial assistance in the form of child care certificates to the same restrictions required for grants and loans provided under this Act.

VII. VOTES IN COMMITTEE

On July 20, 1988, the Chairman of the Committee on Labor and Human Resources, Senator Kennedy, exercised his authority under Rule 10 of the Committee Rules of Procedure to withdraw S. 1885 from the Subcommittee on Children, Family, Drugs and Alcoholism and place the measure before the full Committee for further disposition. On July 27, 1988, an amendment in the nature of a substitute offered by Senator Dodd was unanimously approved by a voice vote by the Committee on Labor and Human Resources. The Committee then ordered S. 1885 reported as amended by a unanimous voice vote.

VIII. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 5, 1988.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1885, the Act for Better Child Care Services of 1988, as ordered reported by the Senate Committee on Labor and Human Resources on July 27, 1988.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1885.
2. Bill title: Act for Better Child Care Services of 1988.
3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on July 27, 1988.

4. Bill purpose: This bill would establish and authorize through 1993 a new federal proram providing grants to states for improving child care services. Funds would be allocated to states on the basis of population under five years of age and participation in the National School Lunch Program. Three-fourths of the funds would be used to provide child care assistance on a sliding-fee-scale basis to families with incomes below 100 percent of state median income. The remaining funds would be used to improve child care services by establishing licensing and regulatory standards, improving enforcement of such standards, expanding resource and referral systems, increasing training and salaries for child care staff, and making other changes. The grants would be subject to subsequent appropriations action.

5. Estimated cost to the Federal government:

[by fiscal year, in millions of dollars]

	1989	1990	1991	1992	1993
State Grants	2,500	2,603	2,707	2,815	2,927
Federal Administration	8	8	8	8	8
Total Estimated:					
Authorization Level	2,508	2,611	2,714	2,823	2,936
Estimated Outlays	1,370	2,920	2,810	2,790	2,910

These costs would fall within function 500.

Basis of estimate: The bill would authorize $2.5 billion for state grants in 1989, and such sums as may be necessary through 1993. Estimated levels for the such sums authorizations are the 1989 level, adjusted for inflation. The bill would also require several tasks of the newly created Administrator of Child Care. Federal administration was assumed to cost $7 million, based on the average cost of administering other state grant programs within the Department of Health and Human Services. An additional $1 million cost was assumed in 1989 and 1990 to support a National Advisory Council on Child Care Standards. Administrative costs were assumed to increase with inflation.

Outlays were estimated assuming full appropriation of authorized levels at the beginning of the fiscal year. Spending was assumed to follow the spending patterns of the Child Welfare Services program. However, outlays were reduced in the first year to reflect a planning period for preparation of the five-year state plans.

6. Estimated cost to State and local government: In order to receive Federal grants, states would be required to provide 20 percent matching funds, using public or private non-Federal funds. If the full $2,500 million were appropriated and allocated, states would have to provide $625 million in non-Federal funds, bringing total spending to $3,125 million. States may apply existing state child care expenditures toward the required 20 percent match. The match rate would be reduced to 15 percent once a state demonstrates that all child care services meet state and local regulations, and publicly funded child care services meet the newly established federal child care standards. States not meeting such standards

within five years after they are issued would lose eligibility for grants under this Act.

States would be allowed to use up to 10 percent of their state allotment to develop and administer their state plans. An additional 15 percent would be available for assisting local resource and referral systems, hiring and training licensing and regulatory staff, conducting annual inspection visits to all day care centers and 20 percent of regulated day care homes, training and increasing salaries for child care staff, and for other purposes.

7. Estimate comparison: None.

8. Previous CBO estimate: On February 23, 1988, CBO prepared a cost estimate for H.R. 3660, the Act for Better Child Care Services of 1987, as introduced in the House of Representatives. Estimated costs for the two bills are the same.

9. Estimate prepared by: Julia B. Isaacs (226-2820).

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

IX. REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the following statement of the regulatory impact of S. 1885 is made.

A. ESTIMATED NUMBER OF INDIVIDUALS AND BUSINESSES REGULATED AND THEIR GROUPS OR CLASSIFICATIONS

It is estimated that 18 million children will be eligible for assistance under the Act by virtue of their families' meeting the income eligibility threshold. It is difficult to estimate precisely the number of children actually affected because the states have broad discretion to allocate funds. The Act simply requires that no funds go to families whose incomes exceed 100 percent of the state median income, that priority be given to families with very low incomes, and that sliding fee scales be utilized. Informal estimates indicate that approximately 1 million children will receive direct assistance under S. 1885.

State discretion in the allocation of funds also makes it impossible to estimate the number of businesses affected. Many businesses will benefit because their employees will be eligible for direct assistance under S. 1885. Businesses that operate or are affiliated with non-profit or for-profit child care providers will benefit because S. 1885 makes funds available for the establishment of new child care programs and for renovation of existing facilities to meet health and safety standards. Businesses and their employees will also benefit generally from funds provided under the Act for resource and referral programs and for training and technical assistance for child care providers.

B. ECONOMIC IMPACT ON THE INDIVIDUALS, CONSUMERS AND BUSINESSES AFFECTED

The Committee expects this legislation to have a positive economic impact on the individuals, consumers and businesses affected. S. 1885 will provide direct assistance to low-income families to help them find and pay for quality child care services. Thus,

S. 1885 will generally serve to increase the disposable income of low-income families receiving funds under the Act and will assist the unemployed and recipients of public assistance in moving into productive employment. Businesses will benefit greatly from the provision of child care assistance to their employees and from the establishment of a child care infrastructure which will assist employers and employees in locating quality and affordable child care.

Concerns have been raised that the minimum federal standards for publicly-assisted programs included in the Act might raise the costs of child care services. The Committee finds no evidence that this will be the case, especially since a significant amount of funding will be made available to states to assist them in complying with the standards. The Committee also expects that, as the minimum federal standards are implemented nationwide, market forces and economies of scale for existing providers will serve to negate any initial effect on cost which the standards may have. The Committee also expects that the minimum standards will have a favorable impact on the cost of child care services generally by helping to reduce the costs and increase the availability of liability insurance for child care providers.

C. IMPACT OF THE ACT ON PERSONAL PRIVACY

The Committee expects that this legislation will have no significant impact on personal privacy. In order to be eligible for direct assistance, families will make available information on their incomes; such a requirement, however, is consistent with any public program which requires a means test for eligibility. In order to be eligible for assistance under this Act, child care providers will be required to comply with existing state licensing and regulatory requirements and, after 5 years, with the minimum federal standards. The enforcement of the licensing and regulatory requirements rests in large part with the states and will have no greater impact on personal privacy than any other federal law which includes performance standards as a condition of eligibility.

D. ADDITIONAL PAPERWORK, TIME AND COSTS

It is difficult to estimate the volume of additional paperwork necessitated by the Act, but the Committee does not believe it will be significant. Additional paperwork required at the federal level will be minimal, since administration of the Act is primarily a state responsibility. The main federal responsibility is to ensure that states comply with their 5-year plans, which they are required to submit in order to be eligible for assistance. Most states and licensed child care providers already maintain the necessary records and administrative procedures needed to comply with current state licensing, regulatory and eligibility requirements. The Committee expects that the states will gradually incorporate procedures necessary to ensure compliance with the minimum federal standards into their existing licensing and regulatory structures.

X. SECTION-BY-SECTION ANALYSIS

SECTION I—SHORT TITLE AND TABLE OF CONTENTS

This section provides for the Act to be cited as the "Act for Better Child Care Services of 1988".

SECTION II—FINDINGS AND PURPOSES

This section outlines the findings and purposes of the Act.

SECTION III—DEFINITIONS

This section defines the terms used in the legislation. The term "eligible child" limits eligibility for assistance under this Act to children whose family income does not exceed 100 percent of the state median income for a family of the same size. Other definitions include "family child care provider", "center-based child care provider", "group home child care provider", and "units of general purpose local government". "Eligibile child care provider" is defined as any provider which meets applicable standards. Tribally controlled community colleges are included in the definition of "institution of higher education".

SECTION IV—AUTHORIZATION OF APPROPRIATIONS

This section authorizes $2.5 billion for FY89 and "such sums" for FYs 1990–93 for the Act for Better Child Care Services (ABC).

SECTION V—ALLOTMENTS

The section provides for the allotment of funds among states. The distribution formula is based on the total number of children under age 5 in the state, the total number of children in the state eligible for free and reduced price lunches, and the per capita income of the state. The provisions related to the funding of Indian tribes specify that at least 1.5 percent will be reserved for this purpose, that funds are to be awarded competitively among tribes, and that Indians residing in the states of Oklahoma, Alaska, and California (where there are no reservations) are eligible to apply.

SECTION VI—LEAD AGENCY

This section provides that the Chief Executive Officer of a state desiring to participate in the ABC program designate a "lead agency" to administer the program, assess child care needs and resources in the state, develop the state plan, and coordinate child care services.

SECTION VII—APPLICATION AND STATE PLAN

This section provides that, in order to receive funds under the Act, states must submit a five-year plan to the Secretary of Health and Human Services describing how the requirements of the Act will be met. The requirements of ABC include: that 75 percent of the state allocation be used for direct child care services on a sliding fee scale basis (with priority given to families of very low income), that 15 percent of the state's funds be used to make reasonable progress toward increasing the availability and quality of care, and that the state develop procedures to comply with the Act's licensing and regulatory requirements. This section also: outlines that the minimum federal standards in the Act apply only to publicly-assisted child care programs; ensures an equitable geographic distribution of funds between rural and urban areas in each state; provides that existing state funds spent for child care will count toward the state match; allows states to modify state standards if the modification is based on a positive developmental practice; and outlines the scope of parental involvement in programs receiving priority under the Act.

SECTION VIII—SPECIAL RULES FOR USE OF STATE ALLOTMENTS

This section specifies that states may distribute child care funds on behalf of eligible children through certificates, grants, or contracts. Units of general purpose local government may receive grants from a state to contract for child care services with eligible providers. This section also contains a provision establishing the conditions under which a child care provider may receive assistance for minor repair and renovation of facilities.

SECTION IX—PLANNING GRANTS

This section authorizes the Secretary to award planning grants to states in an amount not to exceed one percent of their allotment to assist them in preparing the five-year plan required by the Act.

SECTION X—CONTINUING ELIGIBILITY OF STATES

This section provides that five years after the Secretary establishes the minimum federal standards, all providers receiving ABC or other public funds must be in compliance with those standards in order for the state to remain eligible for assistance.

SECTION XI—STATE ADVISORY COMMITTEE ON CHILD CARE

This section requires that a state advisory committee on child care be established to advise the lead agency on child care policies, review and evaluate child care services within the state, and report on child care licensing policies. States have the option of establishing one or two advisory committees, as long as the functions of both are fulfilled. States are also permitted to use their existing state child care committees to comply with the requirements of the Act if they are "comparable" to the committees required under this legislation.

SECTION XII—RESOURCE AND REFERRAL PROGRAMS

This section provides for the establishment of resource and referral programs within states to assist parents in locating child care, and to assist providers in obtaining training and technical assistance. Units of general purpose local government are included as potential recipients of funds. Resource and referral organizations designated by the lead agency for particular geographic regions of a state will ensure that these services are available to all parents in the state.

SECTION XIII—TRAINING AND TECHNICAL ASSISTANCE

This section provides for the implementation of a minimum training requirement for child care providers and financial assistance for individuals seeking training. The training is designed to meet the needs of such special populations as children with handicapping conditions and abused and neglected children. Training scholarships may be made available only to low income individuals. States will have two years to phase in the 15-hour training requirement for all providers.

SECTION XIV—FEDERAL ADMINISTRATION OF CHILD CARE

This section establishes a child care administrator within the Department of Health and Human Services to administer the Act.

SECTION XV—FEDERAL ENFORCEMENT

This section provides that the Secretary review state compliance with the state plan and establishes a procedure to follow if a state is found to be in noncompliance.

SECTION XVI—PAYMENTS

This section establishes the non-federal share for states participating in the program and provides that the state match will be reduced from 20 percent to 15 percent when a state implements the federal standards as required by Section 10.

SECTION XVII—NATIONAL ADVISORY COMMITTEE ON CHILD CARE STANDARDS

This section provides for the establishment of a National Advisory Committee on Child Care Standards that will set minimum standards for health and safety in several key areas. This section also ensures that the nutritional requirements of the Child Care Food Program apply to child care services under this Act.

SECTION XVIII—LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES

This section provides that no financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

SECTION XIX—NONDISCRIMINATION

This section states that any financial assistance under this Act shall constitute federal financial assistance for the purposes of relevant civil rights statutes. This section also prohibits discrimination against children in admissions with financial assistance provided under this Act.

SECTION XX—PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES

This section states that nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

XI. ADDITIONAL VIEWS

ADDITIONAL VIEWS OF MESSRS. HATCH AND COCHRAN

The Minority senators on the Labor and Human Resources Committee agree to withhold their amendments and report S. 1885 on a voice vote because the lack of child care which is both available and affordable is a concern to all of us and we did not wish to delay the bill in Committee. To the extent that the "Act for Better Child Care" (the "ABC" bill) is a sincere effort to address the child care needs of low- and middle- income families in which a single parent or both parents must work, we commend it. Since its introduction in November 1987, the ABC bill has helped foster attention and debate on this critical national issue, and that, in and of itself, is an important contribution to the public policy process.

The ABC bill, however, is seriously flawed despite several changes incorporated into a committee substitute.

First of all, the bill overemphasizes direct subsidies relative to activities designed to increase the availability and choices of child care. Under the bill, 75 percent of a state's allotted funds must be used for direct services. Activities which increase the variety and supply of care must be undertaken with funds allocated to a 15 percent set-aside, with which states are required to conduct several other specific functions.

While many of us support assistance to low-income families through child care certificates, it is important to recognize that many forms of child care are in very short supply. Certificates or subsidies to families cannot be effective unless there are sufficient child care slots and a variety of choices for parents.

Second, even though the requested authorization is a hefty $2.5 billion, it is estimated that fewer than 700,000 full-time slots can be subsidized under the provisions of the bill. Furthermore, the direct subsidization approach without also increasing supply will only bid up the price for existing child care with the result that even fewer children can be cared for.

Third, the reliance on direct subsidies will contribute to a bifurcated child care market. If, as the sponsors argue, new providers will take the monetary bait and offer their services in the child care field, these providers will not only cater to the ABC-eligible child, they will owe their existence and financial viability to this federally funded program. In short, we will have created a federal policy which *de facto* segregates children whose parents are eligible for ABC bill subsidies from children whose parents are not.

Fourth, the ABC bill lacks opportunities for community-initiated and operated programs. We believe local initiatives for solving local child care problems should be encouraged, assisted, and rewarded. Such initiatives not only allow for the tailoring of programs to specific community needs but also provide additional opportunities to involve citizens and local organizations in developing child care solutions. We believe this is preferable to having programs prescribed and imposed by the federal government.

Fifth, the ABC bill contains no provision which could be construed as an incentive to the private sector to increase their participation in child care programs. It should be patently obvious to everyone that the federal government cannot successfully address either the availability or affordability aspects of the child care problem by itself. The private sector must be encouraged to undertake child care projects. Congress cannot afford to overlook or give short shrift to legislative proposals, such as limited reform of tort law, which would remove barriers to such participation.

Finally, the ABC bill proposes very strict federally imposed standards for child care providers. While there is little disagreement that children should be in safe, wholesome environments, and that federal funds should not be used to finance careless, unqualified, or fly-by-night child care facilities, we believe, with Senator Quayle, that states are capable and willing to perform the important fucntion of determining and enforcing standards. At a minimum, the process of determining standards should be more broadly based and states should play a larger role in it. We cannot expect every state to live up to a one-size-fits-all set of child care standards. The states we represent are different in a variety of ways and flexibility on this point is absolutely essential.

In September 1987, we introduced a child care proposal, S. 2084, the "Child Care Service Improvement Act," in which we are joined by 15 Senate colleagues representing both sises of the aisle. We believe this proposal avoids the several theoretical pitfalls we have outlined here. Of course, we would urge senators to examine S. 2084 and compare it with the complex federal program proposed by the ABC bill, S. 1885.

But, because we believe child care is a legitimate national concern which begs for some federal leadership, we intend to work hard toward the enactment of a solid, bipartisan measure.

Orrin G. Hatch.
Thad Cochran.

ADDITIONAL VIEWS OF MR. THURMOND

On January 15, 1988, Secretary of Labor Ann McLaughlin named 12 senior officials of the Department of Labor to serve as members of an internal task force on child care. Their report entitled "Child Care: A Workforce Issue" concluded in summary as follows:

> The Federal Government is already addressing the child care issue on a large scale.
>
> State and local governments are dynamic in their response to the child care challenge. The evidence suggests that they will become even more aggressive in the future.
>
> Employers have a direct interest in addressing their employees' child care problems and many have realized already the economic benefits that result from attention to the issue. However, many others are still unaware of the impact of addressing the child care problems of their employees.
>
> Child care requirements of parents and families vary substantially. Therefore, child care policy cannot be addressed in an aggregate fashion.
>
> Significant child care problems have been created by real pressures, but there is not an across-the-board availability crisis of national proportions.

According to Douglas Besharov, resident scholar at the American Enterprise Institute, federal child care assistance has more than doubled over the past 15 years. By his estimates, between 1972 and 1987, federal child care expenditures rose from $1 billion to $6.2 billion—an increase of 127 percent. By 1989, expenditures will approach $8 billion—another 24 percent increse.

Programs such as "Head Start", the Child Care Food Program, Social Services Block Grants, and child-care associated with welfare and job-training, comprise about $2.7 billion of the $6.2 billion provided for child care support by the federal government.

The other $3.5 billion in federal child care cost is attributable to two income tax credits: the "Child and Dependent Care" Credit and the "Employer-Provided Child and Dependent Care Services" Credit.

The "Child Care" Credit dates back to 1954, when it was a limited deduction. Congress made it a tax credit in 1976, and in the last 15 years, the cost to the Treasury of this credit has increased from $224 million to $3.5 billion—an after-inflation jump of a tremendous 479 percent. It is expected to increase another $1.1 billion by 1989—a 31 percent increase in just two yers.

The "Employers-Provided Child Care Services" Credit was enacted in 1981, and creates a tax break for up to $5,000 in child care expenses if the employer—rather than the parent—pays for child care. According to the Treasury, this credit will grow from $30 million in 1987 to a projected $150 million in 1989, a five-fold increase in only two years. This statistic suggests that employers are responding, and will continue to respond, to the child care needs of employees.

With this background in mind, one must question if this bill authorizing an additional $2.5 billion in federal expenditures, and unfortunately, establishing large federal and state bureaucracies to administer it, is necessary, given current budget constraints. Moreover, this legislation would create a "National Advisory Committee on Child Care Standards" to stablish minimum child care standards, which states must meet in order to qualify for funding. All publicly funded child care providers would have to meet these standards.

It is not clear to me that *national* child care standards are needed. It has not been established in my mind that state and local governments have fallen short in this area and need to be guided by the "superior wisdom" of Washington. Moreover, child-rearing is too personal, and this Nation too diverse, to be subjected to one national standard. For example, I would anticipate that the people of Alaska may have different child care problems than those of New York City.

Additional concerns are raised by the focus of this measure on institutional care. New research indicates that children who are in day care from an early age are more likely to be uncooperative and unpopular with their peers by the third grade. According to a study conducted at the University of Texas at Dallas, researches Deborah Lowe Vandell and Mary Anne Lorasaniti also found that full-time child care was associated with poorer skills, lower grades and diminished self-esteem. While other studies have reached different conclusions, this debate suggests that Congres should not move too quickly before all the evidence is in.

I don't often agree with the editorial staff of the Washington Post, but in a July 26, 1988 editorial they said it well: "[Child care] is too important . . . to become a thophy in election-year politics. Congress . . . should think the issue through before they act, and our clear sense is that they haven't."

Accordingly, for the reasons set out above, I do not support this measure.

STROM THURMOND.

ADDITIONAL VIEWS OF MR. QUAYLE

Despite strong opposition to many of the provisions in the Act for Better Child Care (ABC), I agreed to report the bill out of the Labor and Human Resources Committee on a voice vote. Our past experiences in the Committee have shown that we are unable to effectively amend bills at markups, and that the real negotiations on such legislation is done outside of the Labor Committee room. Despite the Committee report's assertions that the bill was reported by a unanimous voice vote, there is serious objection to it.

I have many problems with the Act for Better Child Care, some of which we will discuss here, but these additional views would be a volume themselves if I were to dissect all aspects of the bill with which I disagree.

Child care is an issue today. No one disputes that. I have introduced my own proposal on the child care issue and would refer my colleagues to the dozens of other child care bills already introduced and soon to be introduced. While there seems to be some agreement on taking action to increase the availability and affordability of child care, there is very little agreement on how that should be accomplished. Child care is too important of an issue to become mired in partisan politics of an election year. I hope this bill will not be considered by the Senate this year, in order to build a consensus on the issue.

Child care has become, in the minds of many, a workforce issue. Two-thirds of mothers with children under the age of 14 are in the workforce, and almost half of the nation's employees are women. Employees must have good child care to allow them to go to work, especially as so many families are forced to have two incomes to make ends meet these days. Employees must have good child care to feel content and free of worry when they are away from home so they can adequately perform their jobs. I do not disagree with these premises.

More than a workforce issue, however, the debate about child care has also become a debate about the best ways to raise children and whether the federal government should "reward" mothers that work, while ignoring mothers that stay at home, often at considerable financial hardship, to raise their children, themselves. While I have strong views about raising children, I believe it is totally inappropriate for the federal government to make such a distinction in its policy.

I have many philosophical differences with the approach taken by the sponsors of the Act for Better Child Care. A quick look at the bill I have sponsored will point that out. I believe the child care debate is a classic example of the differences between Republicans and Democrats in writing social legislation.

The Democratic approach would establish a new federal and state bureaucracy to fund a system of institutionalized child care.

Decisions about the best placement of children would be made de facto, by the child care system. Choice is removed from parents and replaced with directives from the federal government.

The Republican approach would be to provide assistance directly to families, not institutions, to permit them to make the best choice in the care of their children. I would not create a self-perpetuating child care system, nor press upon parents a preferred option for child care. Nor would I ignore the family that makes the decisions to raise their children by having one parent stay at home and, in many cases, give up a second income.

Parents should know that this fundamental difference exists between the two approaches. I belive that parents, not the federal government, should make decisions affecting the family and their children.

I would like to briefly discuss the principles I feel should be the basis for any child care bill:

First, the federal government should help all families with children, not just families in which both parents work. The family in which one parent, usually the mother, stays at home does so often at financial loss. The federal government should help these families that give up a second income to raise their children themselves, as well as families in which both parents work.

Second, the federal government should not encourage one type of child care arrangement over others. We cannot be in the business of telling families how they should care for thier children. I support complete choice by parents in the care of their children, in a way that provides benefits in a neutral fashion, not favoring any type of care.

Third, the federal government needs to lower the tax burden of families with children. Between 1960 and 1984, the average tax rate for a couple with two children increased 43 percent; for a couple with four children, the increase was 223 percent. If the personal exemption for children kept pace with inflation, it would now be $5,000. I support legislation that lowers the tax burden of all families with children in the middle and lower-income brackets by providing a tax credit.

Fourth, with limited federal resources, it is important to target resources to low and moderate-income families. I support assistance that targets federal aid to families with lower incomes.

Fifth, the federal government must not discriminate against child care affiliated with religious organizations. The Act for Better Child Care originally did not allow federal funds to be used for child care affiliated with religious organizations. The bill has been amended to permit some funding of child care affiliated with religious organizations in recognition of parental desire and reality that one-third of all child care is provided by sectarian entities.

Sixth, any federal subsidies should go to parents and not to service providers. Child care is one area where we do not need a large federal or state bureaucracy. We have enough bureaucracies to deal with welfare, and food stamps, and health care, and Social Security. Let's not create another one to lose our children in.

Seventh, we should use the natural affection of parents for their children as the fundamental quality control mechanism. Federal regulation of child care will stifle the growth of some of the best child care available—that provided under informal arrangements with relatives, neighbors, or friends. Parents will naturally seek the best care for their children that they can find. Let's allow the market to flourish based upon demand by concerned and interested consumers—parents.

Eighth, states should continue to develop and implement any standards for the licensure and registration of child care providers. It is wrong for the federal government to impose federal standards on states and localities in a matter as individual as child care.

These are the principles I feel would make a good child care bill. I would like to discuss several of these items in greater detail.

FEDERAL STANDARDS

I support the removal from the bill of the language related to the development and implementation of the federal child care standards. I believe this issue of federal standards is one of the most important of all the child care issues that we have before us, and would urge my colleagues to think about this matter very carefully before just blithely approving this legislation.

States have long been licensing and regulating child care providers, and I believe the power for such licensure and regulation should exist solely with the states. It is inappropriate for the federal government to impose federal standards on states and localities, given the broad economic and moral diversity in our nation. I believe the imposition of standards will result in a decreased number of child care providers, which will not be to the benefit of anyone at all.

The federal government has had some experience with the idea of child care standards, although it has never implemented them. In 1968, there was a move to create the Federal Interagency Day Care Requirement standards. These standards were really more hortatory than mandatory, and there were several attempts to revise them and put them in place for the Head Start program and for the social services programs prior to the creation of Title XX.

In 1976, after Title XX, providing funds for a variety of social services, was written, a study was implemented to see if federal regulations in the area of child care were necessary. A study was completed, which said the current hortatory guidelines were inappropriate, and new standards should be developed. The Department of Health and Human Services promulgated regulations in 1979 to implement the recommendations of this study. However, Congress decided that the rules governing the child/staff ratios would cost too much. As a result, Congress passed a moratorium on the implementation of those regulations. When Congress passed the reconciliation bill in 1981 turning Title XX into a block grant, all requirements relating to federal regulations on child care were removed.

We are now facing a similar situation with the ABC bill. I believe that the federal standards as required under ABC will result in higher costs to the federal government, states, and localities, and also higher costs to the consumer. Additionally, the imposition of such standards will reduce the number of child care providers, thus hurting the families that we are trying to help by providing more care. Congress should again impose a moratorium on federal standards.

The imposition of federal standards upon state and local child care providers, for the most part, will mean extra costs to be borne by that provider. All of the areas of regulation—child/staff ratios, health and safety requirements, and qualifications and background of personnel—will result in increased costs for providing child care services. Providers will have to hire extra staff, will have to, most likely, provide training or hire individuals with additional training, which will mean higher salaries, and may have to make changes in the physical plant of the center or home to meet health and safety standards. For small child care centers that are just going into business or that are run by a single person, the imposition of these standards may push them over the edge and cause them to drop out of the market.

As the ABC bill is written, the federal standards would apply to all child care providers that receive federal funds, whether those funds are from the ABC bill or not. So, the reach of this bill is far, indeed, and will have a tremendous impact on child care providers. The sponsors of the bill may believe that federal standards will improve child care in this country, and it may improve some institutionalized child care, but it will diminish the number of providers and keep many people from entering the business.

If providers do not leave the market, their other response will be to raise prices. This will not help the low-income single mother we are trying to help by making more child care available. If you had to hire additional staff, and make changes in the physical plant, could you do so without increasing the cost to the consumer? I doubt it. I think the parents of this country need to know what standards will mean to the affordability of child care.

Currently, all states have licensing standards for child care centers. Some states have standards for other providers of care, such as group homes or home-based care. Some states regulate sectarian care, and others do not. Some states exclude schools or academies that are specifically established for child care. States have different licensing standards for different sized day care providers. The bottom line is that there are tremendous differences between state standards.

To apply blanket coverage by the federal government to all of these providers in every state will cause many providers to leave the system.

I believe that standards are a necessary part of programs, but in this case, we are intruding in an area that is best left to state discretion. I do not think that the child care standards for New York City would be appropriate or desired in a small community in Butte, Montana. We should leave this area of regulation to the states, as the Governors have requested in testimony before this Committee.

Finally, I am concerned about the structure of the National Advisory Committee on Child Care Standards. This Committee would consist of members appointed by the legislative and executive branches to write federal regulations. The Secretary of Health and Human Services would have a very small role in writing the rules, and basically would have to use the recommendations of the Committee to write the regulations. Also, after publication of the regulations, the Secretary could not amend the standards to make them less stringent or less comprehensive than when they were first established. This is an outrageous restriction by the legislative branch upon the executive branch, and one that is very unwise.

To begin with, what if the child/staff ratio were such that it caused all but a few day care centers to shut their doors because they could not afford to hire additional staff, nor could the parents afford to pay such high rates as a result of that additional staff. Could the Secretary really not amend the standard to make it less comprehensive, even if the whole system of day care were being severely damaged?

I also question how an advisory group appointed by the Congress can write regulations. There is not a single person on the group representative of the executive branch. Do we really want regulations written by advocates of the programs, who may have little understanding of the federal government and less concern about the consequences of their actions with regard to such things as the federal budget? Can regulations be written by individuals outside of the executive branch?

Even if the sponsors of ABC disagree with my position on federal standards, they cannot disagree with my concerns about this Advisory Committee.

Finally, if there is an appropriate federal role in the area of federal standards, it is to help create model standards, to provide technical assistance to states and providers, and to help the consumer—the parent—become more aware of good and bad child care.

Parents have their children's best interests at the forefront of everything they do. It is not asking too much that parents decide for themselves which child care providers are good and which ones aren't. I believe the market will respond to parent's desires if parents are involved.

TAX CREDITS FOR ALL FAMILIES

I believe that the tax credit should be the primary vehicle for assisting families with regard to child care. Indeed, a tax credit is the fairest way to reach all families with children. And a tax credit makes a clear statement about federal policy—that we want to help all families with children, not just families in which both parents work.

This is the greatest inequity in the ABC bill. The ABC bill would help only those families in which both parents work or single parents. This does not recognize the economic sacrifice that many families make when they decide to have one parent give up a second salary and stay at home to raise the children.

The federal government should not make policy that discriminates against families that choose to raise their children themselves. If we pass the ABC bill, that is exactly what we are telling the American public. We are establishing a government policy that says the only way to get help under this bill, if you are a low-income family, is to have both parents go off to work and leave your children in someone else's care.

And the ABC bill goes further and says that that care should be institutionalized care.

A tax credit would not only help all families, whether both parents work or not, but it would allow parents freedom of choice of child care. They could use the tax credit for any purpose—whether it be institutionalized care or care by a relative or friend at home.

Tax credits are useful in other ways. They can be very well targetted to families at certain income levels. Tax credits can also be granted in differing amounts, depending on the family income, making it a very progressive type of program. Finally, tax credits can be made refundable, so that families that have little or no tax liability can still receive assistance.

The cost of a tax credit program varies depending on the program parameters. The tax credit program that is in the Choices in Child Care Act, which I introduced, would provide a tax credit of between $150 to $400 per child under the age of six for families under $20,000 and phases out the credit for families with incomes up to $40,000, increasing to $45,000 in four years. The estimated cost of such a tax credit over five years is $4 billion. This figure is less than what is provided for in the ABC bill, but all the money goes directly to parents and families, and no money is spent on a state and federal bureaucracy.

Our Tax Code has changed dramatically over the past 20 years, yet it has done little in the way of helping families cope with the expense of children, and some groups say the tax code is anti-family.

We are always talking about fairness in the tax code, but no one talks about fairness in the tax code for families.

The tax credit is a way to help families pay for the cost of child care; it allows complete choice by the parent with regard to child care; and it can be targetted to families of certain income levels.

FLEXIBILITY THROUGH TAX CREDITS

Tax credits also provide the greatest amount of flexibility to parents in the selection of child care.

Parents could use the tax credit for any type of child care they feel best meets their needs. Tax credits could be used to purchase care from licensed or unlicensed child care providers, and could be used for child care centers, group home child care, family child care, or after-school care.

While the ABC bill does include a provision for a certificate, which is similar in some respects, it would be a limited program because it could only be used for "eligible child care providers" which must be licensed providers. This leaves out a tremendous number of excellent child care providers.

According to the Report of the Secretary of Labor's Task Force on Child Care, of the 12.6 million children who are not in school most of the time the mother is at work, and therefore needing child care:

—6.8 million or 54 percent are cared for by a family member or by a relative;

—2.9 million or 23 percent are cared for by a non-relative in a non-licensed setting, usually a home;

—2.5 million or 11 percent are cared for in child care centers or licensed facilities; and

—.5 million are left to care for themselves.

What these figures indicate is that most parents prefer to place their children in non-licensed settings: 77 percent of the children aged 14 and under are placed in such settings.

I do not know how the supporters of the ABC bill can ignore such statistics. This information is available to them as well as to me, and I do not think it is a big secret that most families prefer to have their children taken care of in their own homes or in homes of their friends, neighbors, or relatives.

The Report from the Department of Labor goes on to say:

> Considerable concern has been raised that a 'shortage' of child care exists. This report finds no evidence in support of the contention that there is a general, national shortage of available child care . . . However, it does appear that certain types of day care may be in short supply in some communities. These types include infant care, sick child care, and after school care.

The major argument from the other side against allowing tax credit for unlicensed care is that it is bad care or harmful to the child. They may raise cases where children are hurt while in unlicensed care. Unfortunately, that does happen, but children get hurt while they are in licensed day care programs and while they are at school. It is a fact of life that sometimes children fall and hurt themselves.

I would argue strenuously against the view that unlicensed day care is harmful. Doesn't it make sense that an aunt or sister would tend more lovingly to a small infant than a stranger in a child care center who may have to watch several babies? Isn't a neighbor, who is familiar with the family and the values of that family in a better position to tend to a toddler, than a stranger who has no way of knowing how the family lives, or even of knowing the rest of the family?

To argue that a grandmother or grandfather are not well trained to raise a child compared to a licensed center is a demeaning statement. Can people really believe this?

The bottom line is that the ABC bill does not provide the flexibility that parents want when deciding upon child care. Parents want to place their babies and children in settings that are warm and caring, with people who know the family and who show honest affection for the child. Parents want their children in homelike settings, preferably in their own home, but close by. They do not like to pack up babies and drive them across town to a center.

I would argue that non-licensed care is as good and better than institutionalized child care. If we are really serious about helping our children, let's make sure they can get the attention they deserve and the warmth and loving they deserve from caregivers who are close to home.

For these reasons and for many more, which are to numerous to discuss, I strongly oppose the Act for Better Child Care. I believe my alternative contained in the Choices for Child Care Act is a preferable legislative solution to dealing with the question of accessible and affordable child care in our nation.

DAN QUAYLE.

XII. CHANGES IN EXISTING LAW

In accordance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, it is noted that S. 1885 is a free-standing bill and makes no changes in existing Federal law.

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